EXHIBIT 16

Deposition of Mark Sessa, dated October 11, 2022 (REDACTED)

1	UNITED STATES DISTRICT COURT
2	DISTRICT OF NEVADA
3	
4	ANTHONY SESSA and MARK SESSA, No. 2:20-cv-02292
	on behalf of themselves and
5	all others similarly situated,
6	Plaintiffs,
7	vs.
8	ANCESTRY.COM OPERATIONS, INC.,
	a Virginia Corporation;
9	ANCESTRY.COM, INC., a
	Delaware Corporation;
10	ANCESTRY.COM LLC, a Delaware
	Limited Liability Company,
11	and DOES 1 through 50, inclusive,
12	Defendants.
13	
14	
15	
16	REMOTE VIDEOTAPED DEPOSITION of MARK SESSA
17	TUESDAY, OCTOBER 11, 2022
18	VOLUME 1
19	
20	
21	
22	
23	Reported by
	Daryl Baucum, RPR, CRR, RMR, CSR No. 10356
24	
25	Job No. 5468893-1, PAGES 1 - 138
	Doma 1
	Page 1

1 2	UNITED STATES DISTRICT COURT DISTRICT OF NEVADA		APPEARANCES OF COUNSEL (CONTINUED):
3	DISTRICT OF NEVADA	2	
1	ANTHONY SESSA and MARK SESSA, No 2:20-cv-02292	3	FOR THE DEFENDANTS ANCESTRY.COM OPERATIONS,
	on behalf of themselves and	4	INC.; ANCESTRY.COM, INC.; and ANCESTRY.COM LLC:
5	all others similarly situated,	5	
6	Plaintiffs,	6	QUINN, EMANUEL, URQUHART & SULLIVAN
7	VS	7	BY: JOHN W. BAUMANN, ATTORNEY AT LAW
1	ANCESTRY COM OPERATIONS, INC , a Virginia Corporation;	8	(APPEARING VIA VIDEOCONFERENCE)
	ANCESTRY COM, INC , a	9	865 South Figueroa Street
1	Delaware Corporation;	10	Suite 1000
10	ANCESTRY COM LLC, a Delaware	11	Los Angeles, California 90017
	Limited Liability Company,	12	213.443.3000
	and DOES 1 through 50, inclusive,	13	JackBaumann@QuinnEmanuel.com
12	Defendants	14	· · · · · · · · · · · · · · · · · · ·
13		15	- and -
14		16	und
15		17	BY: CRISTINA HENRIQUEZ, ATTORNEY AT LAW
16		18	
17	REMOTE VIDEOTAPED DEPOSITION of MARK		(APPEARING VIA VIDEOCONFERENCE)
18	SESSA, with all participants appearing remotely	19	555 Twin Dolphin Drive
19	via videoconference, beginning at 8:32 a m, and ending at 12:11 p m, on Tuesday,	20	Suite 500
20 21	October 11, 2022, before Daryl Baucum, RPR,	21	Redwood Shores, California 94065
22	CRR, RMR, CSR No 10356	22	650.801.5000
23		23	ChristinaHenriquez@QuinnEmanuel.com
24		24	
25	ъ	25	P. 4
	Page 2		Page 4
1	APPEARANCES OF COUNSEL:	1	APPEARANCES OF COUNSEL (CONTINUED):
2		2	
3	FOR THE PLAINTIFFS:	3	
4		4	ALSO PRESENT:
5	TURKE, STRAUSS	5	SEAN GRANT, Videographer
6	BY: SAMUEL STRAUSS, ATTORNEY AT LAW	6	
7	(APPEARING VIA VIDEOCONFERENCE)	7	
8	613 Williamson Street	8	
9	Suite 201	9	
10	Madison, Wisconsin 53703	10	
11	608.237.1775	11	
12	Sam@TurkeStrauss.com	12	
13	<u>@ </u>	13	
14	- and -	14	
15	und	15	
	LAW OFFICE OF BENJAMIN OSBORN	16	
16		17	
17	BY: BENJAMIN R. OSBORN, ATTORNEY AT LAW	18	
18	(APPEARING VIA VIDEOCONFERENCE)		
19	102 Bergen Street	19	
20	Brooklyn, New York 11201	20	
21	347.645.0464	21	
22	Ben@BenOsbornLaw.com	22	
23		23	
24		24	
25		25	
	Page 3		Page 5

	T
1 INDEX	1 TUESDAY, OCTOBER 11, 2022
2	2 8:32 A.M.
	3
3	4 THE VIDEOGRAPHER: Good morning.
4 WITNESS: MARK SESSA	5 We are going on the record at 8:32 a.m. on
5 EXAMINATION PAGE	08:32:42
6 BY: MR BAUMANN 10	6 October 11, 2022.
7 BY: MR STRAUSS 130	7 Please, note that this deposition is being
8	8 conducted virtually.
9	9 Quality of recording depends on the
10	10 quality of camera and Internet connections of
11 QUESTIONS WITNESS WAS INSTRUCTED NOT TO ANSWER:	08:32:56
12 PAGE LINE	11 participants. 12 What is seen from the witness and heard on
	13 screen is what would be recorded.
13 27 2	14 Audio and video recording will continue to
14	15 take place unless all parties agree to go off the
15	08:33:05
16	16 record.
17 INFORMATION TO BE SUPPLIED:	17 This is media unit number one of the video
18 (NONE)	18 recorded deposition of Mark Sessa taken by counsel
19	19 for Defendants in the matter of Anthony Sessa and
20	20 Mark Sessa, et al., versus Ancestry.com Operations,
21	08:33:19
22	21 Inc., et al., filed in the United States District
	22 Court, District of Nevada, case number
23	23 2:20-CV-02292, and it's being conducted using
24	24 virtual technology.
25 Page 6	25 My name is Sean Grant from the firm 08:33:34
Page 6	Page 8
1 DEPOSITION EXHIBITS 2 MARK SESSA	1 Veritext. I am the videographer.
3	08:33:37
4 NUMBER DESCRIPTION PAGE 5 Exhibit 1 Class Action Complaint 19	2 And the court reporter is Daryl Baucum
1	
for Violation of Nev Rev	3 also from Veritext.
6 Stat Section 597 770	4 I am not related to any party in this
6 Stat Section 597 770 et seq and 598 0903 et seq;	4 I am not related to any party in this 5 action nor am I financially interested in outcome.
6 Stat Section 597 770 et seq and 598 0903 et seq; 7 Intrusion Upon Seclusion; Unjust Enrichment	4 I am not related to any party in this 5 action nor am I financially interested in outcome. 08:33:45
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3 Q Good morning, Mr. Sessa. My name is Jack 4 Baumann. I will be asking you some questions today. 5 To start off, could you just state your 08:35:11 6 name and address for the record. 7 A Yes, Mark Angelo Sessa. 9 Q Have you ever been a party to a lawsuit 10 before? 08:35:28 11 A Yes. 12 Q And do you know approximately how many 13 different lawsuits you have been a party to? 14 A I believe four. 15 Q And with the sort of furthest back in 08:37:58 16 time, the earliest, can you tell me what the nature 17 of that lawsuit was and what sort of what your 18 role in it was. 19 A Yesh, a divorce. 19 Let's see, and then there was the 08:35:41 21 guardianship of my grandson. 22 And then I have a lawsuit against Philips 23 for my CPAP. 24 And also one against I believe it's 25 Equifax because I was one of those people that got 10 Rys. 36:15 2 and got all of their information. 3 Q So as I understand it before, your divorce 4 proceeding, a guardianship proceeding, a claim 5 against Philips, and then a claim against Equifax; 08:36:41 10 Q And do you know what stage that lawsuit is 4 currently a? 5 A No. 08:37:44 6 Q And in the action against Equifax, do you understand that that was also a class action 18 lawsuit? 18 lawsuit? 19 A Yes. 11 that lawsuit. 11 a Wassuit? 12 A No. 12 A No. 13 Q - against Equifax? 14 Sorry. I didn't catch your response. 15 A No. 08:38:08 16 Q And were you deposed as part of that 17 lawsuit against Equifax? 18 lawsuit against Equifax? 19 MR. STRAUSS: Jack and Mr. Sessa, if it's okay. Mr. Sessa, if it's okay. Mr. Sessa, Tin just going to ask you to waite okay. The sessa okay. The sessa of a delay. 21 guardianship of my grandson. 22 And then I have a lawsuit against Philips 23 for my CPAP. 24 And also one against	
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12 Q And do you know whether that was a class 12 A No	
15 Q I want to go over just a few of the ground	
14 A Yes. 14 rules which Sam hopefully touched on here	
15 Q Were you one of the named plaintiffs in 15 Depositions are a little funny In	
08:36:53 08:39:10	
16 that class action lawsuit? 16 conversations, we tend to anticipate what the other	
17 A No. 17 person is going to say and respond but in a	
18 Q And were you deposed in the action against 18 deposition, because we have got the court reporter	
19 Philips? 19 there trying to take everything down, and I just ask	
20 A Yeah. I don't believe so, no. 20 that you wait for me to complete my question and	
08:37:15 08:39:21	
21 Q Mr. Sessa, you froze up a little bit. 21 then you answer after I have completed my question	
I asked whether you were deposed in the 22 Does that work?	
23 action against Philips and I didn't catch your 23 A Yes	
24 answer. 24 Q And at some point your counsel may object	
25 A No. 08:37:30 25 but unless your counsel instructs you not to answer 08:39:34	
Page 11	ge 13

		_		
1	the question, go ahead and answer.	1	When did those meetings occur?	
	08:39:37		08:41:53	
2	Do you understand?	2	A I don't have the dates in front of me.	
3	A Yes.	3	Q Could you give an approximation.	
4	Q And if I ask a question that is unclear or	4	Did they occur this week? last week?	
5	that you don't understand, I would ask that you let	5	A The last several weeks. First time was	
	08:39:49		08:42:08	
6	me know, and if you don't let me know, I will assume	6	probably in December of '20, I think.	
7	that you understood my question.	7	Q And during the meetings with your	
8	Is that fair?	8	attorneys, did you review any documents?	
9	A Yes.		• • • •	
		9	A Yes.	
10	Q And at any point today you can take a	10	Q Do you recall what those documents were?	
	08:40:02		08:42:31	
11	break. Just ask me and I am happy to go off record	11	A It was the depositions.	
12	so you can take a break.	12	Q By "depositions," what are you referring	
13	I just ask that if I have a question	13	to there?	
14	pending, you answer that question and then we take	14	A The entire lawsuit.	
15	our break.	15	Q And do you recall the names of any of the	
10	08:40:16	10	08:42:58	
16	Does that work?	16		
			documents you reviewed during your preparation for	
17	A Yes.	17	today's deposition?	
18	Q And do you understand, Mr. Sessa, that you	18	A No, I don't remember.	
19	are under oath today and that the oath you swore is	19	Q And when you met with your attorneys	
20	the same as you would give in a court of law to	20	Mr. Strauss and Mr. Osborn, aside from other	
	08:40:29		08:43:24	
21	provide truthful testimony?	21	attorneys who work with them, was there anyone else	
22	A Yes.	22	at those meetings?	
23	Q Is there any reason today that you can't	23	A No.	
24	provide truthful testimony?	24	Q At your deposition today	
25	A No. 08:40:42	25		08:43:42
23	Page 14	23	A I'm sorry, you are cutting out. Could you	
	rage 14			Page 16
		_		
1	Q You are not on any medications or any	1	repeat that.	
1	Q You are not on any medications or any 08:40:44	1	repeat that. 08:43:44	
	08:40:44		08:43:44	
2	08:40:44 other you know, there aren't any other reasons	2	08:43:44 Q My camera seems to be thank you for	
2 3	08:40:44 other you know, there aren't any other reasons that you might not be able to give full and complete	2 3	08:43:44 Q My camera seems to be thank you for letting me know. I keep cutting out.	
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	08:40:44 other you know, there aren't any other reasons that you might not be able to give full and complete testimony today? A No. 08:40:54 Q What did you do to prepare for the deposition today? A I'm sorry, could you repeat that. Q Sure. Did you meet with your attorneys to 08:41:05 prepare for today's deposition? A Yes. Q And which attorneys did you meet with? A Sam and Ben. Q And approximately how many times did you 08:41:18 meet with them? A All together, probably fifteen times, maybe. Q And could you estimate how long each of those meetings was for? 08:41:31 A Forty-five minutes to an hour. Q And when did those meetings occur? A I'm sorry, could you repeat that. I didn't get that question.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 166 17 18 19 20 21 22 23 24	08:43:44 Q My camera seems to be thank you for letting me know. I keep cutting out. We can take a break and I can get an IT guy but did you talk with anyone about your 08:43:57 deposition today? A My attorneys. Q Aside from your attorneys, have you spoken with anyone else about today's deposition? A About the suit? 08:44:09 Q Sure. Or the deposition specifically or the lawsuit. A No. Q And have you talked with anybody about 08:44:20 this case other than your attorneys? A Yes. Q And who have you spoken with about this case? A That would be my brother, Anthony. 08:44:27 Q Aside from your brother, Anthony, have you spoken with anybody else about this case? A No. Q What did you and your brother, Anthony,	08:44:48 Page 17

1	A He contacted me and asked me if I knew 08:44:50	1	document in the marked exhibit folder of Exhibit 08:48:20
2	that my picture was on Ancestry.com and then I	2	Share If you click the marked exhibit link, it
3	replied that I didn't and he gave me information on	3	should refresh
4	how and I contacted attorneys.	4	A Marked exhibits?
5	Q You said he gave you information.	5	Q Correct
	08:45:15		08:48:32
6	What information did he give you?	6	A Okay
7	A He gave me information he gave me the	7	Q Are you able to see that document?
8	information of the attorneys.	8	A No
9	Q Aside from that initial conversation, did	9	Q Should I
10	you and your brother speak about the case at all?	10	~
10	08:45:27		A Wait There is activity in this folder 08:48:45
11	A No.	11	
12	Q Mr. Sessa, just briefly, can you tell me		Should I click that, the folder?
13		12	Q You should see a PDF that says Exhibit 1
	your educational background.	13	pop up
14	A Graduated from high school.	14	A No
15	Q And what do you do for a living?	15	MR STRAUSS: Do you want to go off the
	08:45:45		08:49:11
16	A I am currently retired.	16	record for a minute?
17	Can we back up for a second.	17	MR BAUMANN: Yeah
18	Q Sure.	18	THE VIDEOGRAPHER: Going off the record
19	A I did talk to my wife, Vicki, because she	19	The time of is 8:49 a m
20	also went to the same high school. So I asked her	20	(Off the record)
	08:46:01		08:49:18
21	if she was interested and she declined.	21	THE VIDEOGRAPHER: Back on the record
22	Q Did your wife say why she declined?	22	The time is 8:52 a m
23	A She is not comfortable in front of people	23	BY MR BAUMANN:
24	she doesn't know. She rarely goes out of the house.	24	Q Mr Sessa, we are having a little bit of
25	So yeah, that's why. 08:46:21	25	trouble with the Exhibit Share but I'm going to go 08:52:47
	Page 18	==	Page 20
1	Q But jumping back, you said you are	1	ahead and share my screen with you, which I
	08:46:27		08:52:50
2	currently retired.	2	understand your counsel is fine with.
3	How long have you been retired for?	3	And I am going to share what has been
4	A I retired in January of this year.	4	marked as Exhibit 1, and this is a document entitled
5	Q And what did you do prior to retiring?	5	class action complaint for violation of Nevada
	08:46:37		08:53:05
6	A I worked at Trader Joe's.	6	revised statute 597.770.
7	Q And how long did you hold that job?	7	And it's for the case Sessa versus
8	A About fifteen years.	8	Ancestry.com in the District Court for the District
9	Q (inaudible) currently live in Nevada.	9	of Nevada.
10	Have you ever lived outside of Nevada?	10	
	08:46:59	`	08:53:23
11	A No.	11	A Yeah, barely.
12		12	Q And I can help.
			•
13	understanding of your claims in this action.	13	Are you able to see that better now?
14	A Yeah.	14	A Yes.
15	It's about using my Ancestry.com using	15	Q Do you recognize this document, Mr. Sessa?
	08:47:18	1.	08:53:40
16	my picture or pictures without my approval so that	16	A Yes.
17	they can gain more business.	17	Q And do you understand this to be your
18	MR. BAUMANN: I will pull up a document	18	complaint in this case?
19	here, and bear with me as I navigate through this	19	A Yes.
20	Exhibit Share.	20	Q And we can scroll through this document as
	08:47:44		08:53:52
21	(Deposition Exhibit 1 was marked	21	much as you need. Just let me know if you would
22	for identification by the court	22	like me to scroll through it.
23	reporter and is attached hereto.)	23	My next question is going to be did you
24	BY MR. BAUMANN:	24	review this complaint before it was filed.
25	Q All right, Mr. Sessa, you should now see a 08:48:16	25	A Yes. 08:54:14
	Page 19		Page 21
1	8 1		5

1	Q And did you confirm the factual	1	represent you in this case?
	08:54:16		08:56:30
2	allegations in this complaint were truthful?	2	A Yes.
3	A Yes.	3	Q I'm afraid you might not have heard my
4	Q And did you understand that this complaint	4	question.
5	would be filed on your behalf by your attorneys?	5	Sam, are you able to hear me all right?
	08:54:28		08:56:40
6	A Yes.	6	MR. STRAUSS: Jack, I am having this weird
7	Q We touched on this a little bit earlier	7	phenomena with your questions. I am not hearing
8	and I can take this document down for a second, but	8	like the first two words, so
9	when did you first learn that your yearbook records	9	THE WITNESS: Me yeah, that is
10	exist on Ancestry's website?	10	happening to me, too.
	08:54:46		08:56:51
11	A When I did first learn?	11	MR. STRAUSS: So I mean, Jack, this is
12	Q Yes.	12	very elementary. If it persists maybe you want to
13	A When my brother told me.	13	start by saying "my question is" and we will hear
14	Q Do you remember when that was?	14	your actual question. Sorry for telling you how to
15	A I believe it was December 2020.	15	take your crazy deposition.
	08:55:01		08:57:08
16	Q And how did your brother come to learn	16	MR. BAUMANN: This microphone is skittish.
17	that your book was on Ancestry's website, if you	17	BY MR. BAUMANN:
18	know?	18	Q So I will repeat my question, Mr. Sessa,
19	MR. STRAUSS: I'm sorry, Mr. Baumann, are	19	and if this continues, we can pause again and deal
20	you finished with the question?	20	with more tech issues, but my question was when did
-0	08:55:21		08:57:18
21	MR. BAUMANN: Yes.	21	you retain your attorneys to represent you in this
22	MR. STRAUSS: Object to the form of the	22	case.
23	question.	23	A When did when? When I contacted
24	Mr. Sessa, you may answer.	24	first time I contacted them that would be in
25	Wife Sessa, you may answer.	25	December of 2020. 08:57:33
	Page 22		Page 24
	6		8
1	MR. BAUMANN: Let me rephrase the	1	Q And when was that relative to when your
	08:55:26		08:57:36
2	question.	2	brother informed you that he had found your yearbook
3	BY MR. BAUMANN:	3	records on Ancestry's website?
4	Q Did your brother tell you how he	4	MR. STRAUSS: Object to the form of the
5	discovered your yearbook record was on Ancestry's	5	question.
	08:55:31		08:57:47
6	website?	6	You may answer it, Mr. Sessa.
7	A No.	7	THE WITNESS: A day or two later I got in
8	Q Have you come to learn subsequently how	8	touch as soon as as soon as I could.
9	your brother discovered your record was on	9	BY MR. BAUMANN:
10	Ancestry's website?	10	Q And when you hired your counsel, did you
	08:55:46		08:58:01
11	A No.	11	authorize them to investigate your claims as to
12	Q As you sit here today you don't know how	12	whether your yearbook records were on Ancestry's
13	your brother found out your record was on Ancestry's	13	website?
14	website?	14	A Yes.
15	A No.	15	MR. STRAUSS: Object to the form of the
	08:56:01		08:58:16
16	Q (Inaudible) counsel to represent you in	16	question.
17	this case?	17	You may answer it, Mr. Sessa.
18	A I'm sorry, could you repeat that.	18	THE WITNESS: Yes.
19	Q (Inaudible) engage your attorneys to	19	BY MR. BAUMANN:
20	represent you in this case?	20	Q And did you authorize them to file claims
	08:56:16		08:58:20
21	A I still you're breaking up. I can see	21	based on your yearbook record's existence on
22	you. I just can't hear you.	22	Ancestry's website?
23	Q Let me can you hear me now?	23	MR. STRAUSS: Same objection.
24	A Yes.	24	You may answer the question.
25	Q (Inaudible) hired your attorneys to 08:56:25	25	THE WITNESS: Yes. 08:58:30
	Page 23		Page 25

1	BY MR BAUMANN: 08:58:31		1	the content of the communication that Mr. Sessa had 09:01:11	
2	Q And when you authorized your counsel to do		2	with his counsel regarding the prosecution of this	
3	that, did you place any sort of restrictions on what		3	case would be privileged communication or is	
4	your counsel could or couldn't do in investigating		4	privileged.	
5	your claims?		5	So I believe that based on that then the	
	08:58:44			09:01:21	
6	MR STRAUSS: Mr Sessa, I want to object		6	entire question asking what sort of parameters or	
7	just to the extent this is calling for any		7	how he communicated with his counsel regarding the	
8	attorney-client privileged communication		8	prosecution of this case would, in fact, be	
9	So I am advising you that you may answer		9	privileged.	
10	Mr Baumann's question but you are not to disclose		10	So I think yes to your first question. I	
	08:58:58		**	09:01:34	
11	the content of any communications you had with any		11	think it subsumes the entire question you asked.	
12	attorneys in this matter		12	MR. BAUMANN: Understood.	
13	Sorry If it would be helpful, I am sure		13	BY MR. BAUMANN:	
14	Mr Baumann or the court reporter would repeat the		14	Q Mr. Sessa, what (inaudible) did you find	
15	question		15	out your yearbook records were on Ancestry's	
	08:59:15			09:01:45	
16	THE WITNESS: So		16	website?	
17	BY MR BAUMANN:		17	A I'm sorry. You're breaking up again.	
18	Q I can repeat my question with a little		18	Could you repeat that.	
19	more clarification, which is throughout your		19	MR. BAUMANN: Go off the record for like	
20	deposition today and, of course, your counsel		20	five minutes. I'm going to call my tech guy and see	
	08:59:23			09:01:58	
21	might can jump in and object, but I will not be		21	if he can fix this microphone issue.	
22	seeking any I'm not trying to elicit from you any		22	MR. STRAUSS: Sure thing.	
23	attorney-client communication So that is		23	THE WITNESS: I only got about half of	
24	communications you had with your attorneys in		24	what you just said. I heard "five minutes" and it	
25	seeking legal advice from them or in receiving legal	08:59:42	25	was 09:02:10	
		Page 26		Page	28
		6		1 45	20
1	advice from them		1		20
1	advice from them		1	MR. STRAUSS: So Mr. Sessa, what	20
	08:59:45			MR. STRAUSS: So Mr. Sessa, what 09:02:11	20
2	08:59:45 But my question here is when you	- 181 24	2	MR. STRAUSS: So Mr. Sessa, what 09:02:11 Mr. Baumann said is he is going to work with his	20
2 3	08:59:45 But my question here is when you authorized your attorneys to investigate your claims	1.05.11	2 3	MR. STRAUSS: So Mr. Sessa, what 09:02:11 Mr. Baumann said is he is going to work with his tech professional.	20
2 3 4	08:59:45 But my question here is when you authorized your attorneys to investigate your claims and file the complaint, did you place any sort of	3.00.20	2	MR. STRAUSS: So Mr. Sessa, what 09:02:11 Mr. Baumann said is he is going to work with his	28
2 3 4 5	08:59:45 But my question here is when you authorized your attorneys to investigate your claims	3.00.23	2 3 4	MR. STRAUSS: So Mr. Sessa, what 09:02:11 Mr. Baumann said is he is going to work with his tech professional. THE WITNESS: Yes.	20
2 3 4 5	08:59:45 But my question here is when you authorized your attorneys to investigate your claims and file the complaint, did you place any sort of restrictions on what your counsel could or could not 08:59:58	3.08.23	2 3 4	MR. STRAUSS: So Mr. Sessa, what 09:02:11 Mr. Baumann said is he is going to work with his tech professional. THE WITNESS: Yes. THE VIDEOGRAPHER: The time is 9:02 a.m. 09:02:18	
2 3 4 5	08:59:45 But my question here is when you authorized your attorneys to investigate your claims and file the complaint, did you place any sort of restrictions on what your counsel could or could not 08:59:58 do in investigating your claim	3.48.23	2 3 4 5	MR. STRAUSS: So Mr. Sessa, what 09:02:11 Mr. Baumann said is he is going to work with his tech professional. THE WITNESS: Yes. THE VIDEOGRAPHER: The time is 9:02 a.m.	
2 3 4 5	08:59:45 But my question here is when you authorized your attorneys to investigate your claims and file the complaint, did you place any sort of restrictions on what your counsel could or could not 08:59:58 do in investigating your claim MR STRAUSS: So I am going to object to	3.00	2 3 4 5 6 7	MR. STRAUSS: So Mr. Sessa, what 09:02:11 Mr. Baumann said is he is going to work with his tech professional. THE WITNESS: Yes. THE VIDEOGRAPHER: The time is 9:02 a.m. 09:02:18 (Off the record.)	
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1	took as a result of your yearbook appearing on 09:11:30		1	A Western High School, Las Vegas, Nevada. 09:13:34
2	Ancestry's website?		2	Q And when go you attend Western High
3	A No.		3	School?
4	MR. STRAUSS: Mr. Sessa, I just want to		4	A I graduated in 1972.
5	remind you, again, to, please, wait for Jack to		5	Q And did you attend Western High School
	09:11:38			09:13:45
6	completely finish his question before you answer it.		6	that was the only high school that you attended?
7	THE WITNESS: Yes, sorry.		7	A That is correct.
8	MR. STRAUSS: No problem.		8	Q And I take it you went there for four
9	BY MR. BAUMANN:		9	years?
10	Q And did you incur any out-of-pocket		10	A Three.
	09:11:47		10	09:13:56
11	expenses as a result of finding out your yearbook		11	Q And what grades did Western High School
12	was on Ancestry's website?		12	cover at that time?
13	A No.		13	A Grade number ten, eleven and twelve.
14	Q You didn't pay anyone to try to have the		14	Q And did you get a yearbook each year that
15	yearbook records taken down?		15	you were in high school?
	09:12:06			09:14:11
16	A No.		16	A I did.
17	Q And you didn't incur any medical expenses		17	Q And do you remember who was responsible
18	or anything like that?		18	for compiling those yearbooks for the classes at
19	A No.		19	Western High School?
20	Q Mr. Sessa, what is it that you hope to get		20	A They had a yearbook committee.
	09:12:19			09:14:27
21	out of this lawsuit?		21	Q And do you recall the names of anyone who
22	A They will take my picture down and not use		22	was on that yearbook committee?
23	my picture for their profit.		23	A No.
24	Q Have you ever looked into whether you can		24	Q Did students have to pay to receive copies
25		9:12:42	25	of the yearbooks at Western High School? 09:14:44
	I	Page 30		Page 32
1	1-4-9		1	A. Voc
1	website?		1	A Yes.
	09:12:45			09:14:46
2	09:12:45 A No.		2	09:14:46 Q Do you know why that was?
2 3	09:12:45 A No. Q So I take it then before you filed this		2 3	09:14:46 Q Do you know why that was? A To cover the cost.
2 3 4	09:12:45 A No. Q So I take it then before you filed this lawsuit, you never asked Ancestry to remove your		2 3 4	09:14:46 Q Do you know why that was? A To cover the cost. MR. STRAUSS: Object to the form of the
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1 Q And did you purchase a yearbook in each of 09:16:00	1 about you in those books, right? 09:18:13
2 the three years that you attended Western High	2 MR. STRAUSS: Same objection.
3 School?	3 You may answer it.
4 A Yes.	4 THE WITNESS: Yes.
5 Q And did you ever object that your high	5 BY MR. BAUMANN:
09:16:12	09:18:17
6 school was selling copies of the yearbooks in which	6 Q And what did you do with your yearbooks
7 you appeared?	7 when you received them?
8 A No.	8 A I looked at them. I had people sign them
9 Q Do you have an understanding of the reason	9 and then I put them away.
10 that high schools give out yearbooks at the end of	10 Q And other students at your high school
09:16:24	09:18:37
11 each school year?	11 received copies of the yearbook in each year from
MR. STRAUSS: Object to the form of the	12 Western High School, right?
13 question.	13 A If they purchased one, yes.
14 You may answer it.	14 Q And to your knowledge, did some of your
15 THE WITNESS: Yes.	15 friends or classmates purchase their yearbooks, as
09:16:35	09:18:54
16 BY MR. BAUMANN:	16 well?
17 Q What is your understanding?	17 A Yes.
18 MR. STRAUSS: Same objection.	18 Q Do you recall whether most people ended up
19 You may answer it.	19 purchasing their yearbooks?
20 THE WITNESS: So people can look back and	20 A I wouldn't have any idea.
09:16:44	09:19:09
21 see their friends and see what they looked like back	Q Do you know what your classmates did with
22 then.	22 their yearbooks after they received them?
23 BY MR. BAUMANN:	MR. STRAUSS: Object to the form of the
24 Q And what types of information did your	24 question.
25 yearbooks include about you? 09:16:55	25 You may answer it. 09:19:18
Page 34	Page 36
	1 THE WITNESS, No.
1 A I believe just my name	1 THE WITNESS: No.
09:16:59	09:19:19
09:16:59 2 Q Did the yearbooks have any pictures of	09:19:19 2 BY MR. BAUMANN:
09:16:59 2 Q Did the yearbooks have any pictures of 3 you?	09:19:19 2 BY MR. BAUMANN: 3 Q Did you try to put any sort of restriction
09:16:59 2 Q Did the yearbooks have any pictures of 3 you? 4 A Yes	09:19:19 2 BY MR. BAUMANN: 3 Q Did you try to put any sort of restriction 4 on what your classmates could do with their
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09:16:59 2 Q Did the yearbooks have any pictures of 3 you? 4 A Yes 5 Q And what sorts of pictures of you were 09:17:11	09:19:19 2 BY MR. BAUMANN: 3 Q Did you try to put any sort of restriction 4 on what your classmates could do with their 5 yearbooks? 09:19:28
09:16:59 2 Q Did the yearbooks have any pictures of 3 you? 4 A Yes 5 Q And what sorts of pictures of you were 09:17:11 6 contained in your yearbooks?	09:19:19 2 BY MR. BAUMANN: 3 Q Did you try to put any sort of restriction 4 on what your classmates could do with their 5 yearbooks? 09:19:28 6 A Did I?
09:16:59 2 Q Did the yearbooks have any pictures of 3 you? 4 A Yes 5 Q And what sorts of pictures of you were 09:17:11 6 contained in your yearbooks? 7 A It would be my picture and then pictures	09:19:19 2 BY MR. BAUMANN: 3 Q Did you try to put any sort of restriction 4 on what your classmates could do with their 5 yearbooks? 09:19:28 6 A Did I? 7 MR. STRAUSS: Object to the form of the
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1 Q Did you sign any of your friends' 09:20:12	1 members, like your parents, got copies of yearbooks
	09:23:00
1 *	2 from their high schools?
	3 A I don't know
	4 Q Your classmates from high school who
5 You said you had friends sign copies of	5 received copies of your Western High School
09:20:41	09:23:23
6 your yearbooks, right?	6 yearbook, they might have given their copies away,
7 A Yes.	7 right?
8 Q And did you sign copies of any of your	8 MR STRAUSS: Object to the form of the
9 friends' yearbooks?	9 question
10 A Yes.	10 You may answer it
09:20:50	09:23:32
11 Q And did they have other people who had	11 THE WITNESS: I wouldn't know
12 signed their yearbooks, as well, in addition to you?	12 BY MR BAUMANN:
13 A I wouldn't know.	13 Q You have never checked whether they did or
14 Q Well, do you recall when you signed their	14 didn't?
15 yearbooks whether you were the only one that signed	15 A Correct
09:21:05	09:23:39
16 it?	16 Q Do you know whether any of your classmates
A Some of them, I was the first person to	17 might have donated their yearbooks to a government
18 sign so that I don't know if they had any after me	18 archive, for example?
19 but it would usually they would usually turn to a	19 A I wouldn't know
20 page and I would sign it. So I didn't really look	20 MR STRAUSS: Object to the form of the
09:21:28	09:23:54
21 through their books.	21 question
22 Q And did you have an understanding of	22 You may answer it
whether those folks shared their yearbooks when they	23 THE WITNESS: Yeah, I wouldn't know
24 received them with other students besides you?	24 BY MR BAUMANN:
25 A Yes. 09:21:42	25 Q And you have never checked whether they 09:23:58
Page 38	Page 40
1 age 30	
1 Q Do you know whether your high school	1 did or didn't?
1 Q Do you know whether your high school 09:21:47	1 did or didn't? 09:24:00
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1 yearbooks?		1	them to?
09:25:10			09:27:17
2 A I wasn't aware		2	A No.
3 Q Do you know whether your school keeps		3	Q So I take it then you don't know what
4 copies of your yearbooks?		4	price you would get for your yearbooks if you wanted
5 A No		5	to sell them?
		5	09:27:31
09:25:21		6	
6 Q So I take it then you wouldn't know		6	MR. STRAUSS: Object to the form of the
7 whether your yearbooks are available at your old		7	question.
8 high school's library?		8	You may answer it.
9 A Yeah, I would not know		9	THE WITNESS: No.
10 Q Do you know how your high school otherwise		10	BY MR. BAUMANN:
09:25:35			09:27:35
11 uses the yearbooks?		11	Q And I take it the same is true of the
12 A No	I	12	specific pages of the yearbooks in which you
13 MR STRAUSS: Sorry I was just going to		13	appeared.
14 ask you to repeat the question but it's fine We		14	You have never tried to sell or license
15 can move on		15	those; is that right?
09:25:51			09:27:53
16 BY MR BAUMANN:		16	A No.
17 Q And Mr Sessa, where are your copies of		17	Q And just so the record is record is
18 your old high school yearbooks?		18	clear because I asked the question a little funnily,
19 A Upstairs in my bedroom		19	but have you ever tried to sell or license the
1		20	individual pages of the yearbooks in which you
	'	20	09:28:05
09:26:04		21	
21 your old yearbooks?		21 22	appeared?
22 A No			A No.
23 Q Why not?		23	Q And do you have any plans to try to sell
24 A They're mine	I	24	or license those yearbook pages?
25 Q Do you know one way or another whether 09		25	A No. 09:28:17
	Page 42		Page 44
1 anythody might have hearth your yearshook from you if		1	O So do you know one way or the other
1 anybody might have bought your yearbook from you if		1	Q So do you know one way or the other
09:26:22			09:28:23
09:26:22 2 you sought to sell or license it?		2	09:28:23 whether anyone has ever been willing to pay you for
09:26:22		2 3	09:28:23 whether anyone has ever been willing to pay you for those pages of your yearbook record in which you
09:26:22 2 you sought to sell or license it?		2 3 4	09:28:23 whether anyone has ever been willing to pay you for those pages of your yearbook record in which you appear?
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1	A I can see them.	1	MR BAUMANN: Sam, are you able to see	
	09:34:12		09:36:57	
2	Q And then if we look two people to the	2	that in the Exhibit Share folder?	
3	right of them, there is a fellow with brown hair	3	MR STRAUSS: I am, yes	
4	sort of looking down.	4	BY MR BAUMANN:	
5	Do you know who that is?	5	Q And then, Mr Sessa, I will share my	
	09:34:23		09:37:03	
6	A Sitting in front of the gentleman with the	_		
		6	screen with you	
7	blue jacket?	7	And are you able to see a document on your	
8	Q Correct.	8	screen, Mr Sessa?	
9	A No.	9	A Yes	
10	Q Do you know whether there was a student	10	Q And this is a document which has been	
	09:34:34		09:37:22	
11	named Gloria Printz in this picture?	11	marked as Exhibit 3	
12	A No.	12	I will zoom in a little bit and it has the	
13	Q Do you recall the name Gloria Printz as	13	title at the top "All School lists and Yearbooks	
14	somebody you went to high school with?	14	results for Mark Sessa "	
15	A Yes.	15	Do you see that?	
	09:34:58		09:37:35	
16	Q And when is the last time you spoke with	16	A Uh-huh	
17	Gloria Printz?	17	Q Is that a "yes"?	
18	A I don't know.	18	A Yes	
19	Q Do you know whether she still lives in	19	Q And do you recognize this document?	
20	Nevada?	20	A No	
20	09:35:18	20	09:37:45	
21	A No.	21	Can we stop for a second I will and I	
22			•	
	Q Do you know whether she got married after	22	can go get my glasses	
23	high school?	23	Q Of course, absolutely	
24	A No.	24	A All right I will be back in a second	
25	Q Do you know whether she still goes by the 09:35:25	25	THE VIDEOGRAPHER: Do we stay on the	09:37:55
	Page 50			Page 57
_				Page 52
1		1	record. Counsel?	1 age 32
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1				
1	and yearbook collection.	1	MR. STRAUSS: You may ask to hear the	
	09:41:11		09:43:47	
2	Do you have any reason to believe this is	2	question again.	
3	not a printout of that web page?	3	BY MR. BAUMANN:	
4	A I wouldn't know.	4	Q I can repeat that question if you would	
5	Q If we look down below the title of this	5	like.	
	09:41:21		09:43:50	
6	document, you will see to the left it says 1 through	6	A Okay.	
7	20 of 2796.	7	Q And do you have an understanding of what	
8	Do you see that?	8	that 1 of 140 means?	
9	A Yes.	9	A Yes.	
10	Q Do you have an understanding of what that	10	Q And what is your understanding?	
10	09:41:34	10	09:44:04	
11	means?	11	A That there is 140 pages associated with my	
12	A There is 29 I guess there is 29 pages	12	name.	
13	of whatever is being looked up out of the 2700	13	Q I'm going to scroll back up to the top of	
	however many pages, I am guessing.	14		
14	O And then if we look towards the bottom of		this page if that is all right with you, Mr. Sessa.	
15	09:41:58	15	A Okay.	
16		16	09:44:33	
16	this document if I scroll down here to page 4 and	16	Q And if we look at the top of this page, we	
17	I can zoom in even a little bit more but this	17	will see that it says "U.S. School Yearbooks, 1900-2016" in blue.	
18	says results 1 through 20 of 2796.	18		
19	Do you see that?	19	Do you see that? And I can zoom more if	
20	A Uh-huh.	20	you would like.	
l	09:42:15		09:44:57	
21	Q And do you have an understanding of what	21	A It's at the top on the left or on the	
22	that means?	22	right?	
23	A Yes, some, yeah.	23	Q So towards the center of the page, it's	
24	Q And what is your understanding?	24	the first row in the search results list. It says	
25	A That that is the page that pops up when 09:42:29	25	"U.S. School Yearbooks, 1900-2016."	09:45:20
	Page 54			Page 56
1	you I guess when you put my name in.	1	Do you see that?	
-	09:42:37	•	09:45:24	
1 2.	() So it's your understanding that when you	,		
$\begin{vmatrix} 2 \\ 3 \end{vmatrix}$	Q So it's your understanding that when you put your name in, there is 2796 results?	2	A No There is some writing up at the top	
3	put your name in, there is 2796 results?	3	A No There is some writing up at the top left but I can't read it and I don't see anything	
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1	A Yes.	1	A Yes.
	09:46:40		09:49:03
2	Q And then to the right of that, do you see	2	Q And I think you testified earlier that you
3	the name "Mark Sessa"?	3	have reviewed the complaint; is that right?
4	A Yes.	4	A Yes.
5	Q And then below that says "Nevada, USA."	5	Q Now, as I understand it, one of the
	09:46:49		09:49:19
6	Do you see that?	6	allegations you made is that users who hover over a
7	A Yes.	7	record on Ancestry's search results page, the user
8	Q And do you know whether this first entry	8	will see a pop-up with a low-resolution version of
9	here relates to one of your yearbook records?	9	the underlying record; is that right?
10	A You mean where it says "Lists and	10	A Repeat that question.
10	09:47:03	10	09:49:39
11	Yearbooks"?	11	Q Sure.
12	Q Correct.	12	As I understand it, one of the allegations
13	A I don't know.	13	you may have made here is that users who hover over
14	Q There might be other people named Mark	14	a record on the search results page on Ancestry's
1		15	website will see a pop-up with a low-resolution
15	Sessa who attended high school in Nevada, right?	13	09:49:51
1.0	09:47:23	1.0	******
16	A Sure.	16	version of the underlying records.
17	MR. STRAUSS: Object to form.	17	Am I correct that that is an allegation
18	You may answer it.	18	that you have made?
19	THE WITNESS: Yes.	19	A Yes.
20	BY MR. BAUMANN:	20	You know what, I am not sure. Let me
	09:47:28		09:50:08
21	Q And if we look at the second entry below	21	change that.
22	that, we see in blue, "U.S. School Yearbooks,	22	Q Let me maybe expedite this a little bit.
23	1900-2016," and I don't know if you can see my blue	23	And I will scroll down to paragraph 42 and
24	boxing around that or not.	24	tell me if you need me to zoom at all or you are
25	A I can, yeah. 09:47:46	25	able to see this. 09:50:25
1	Page 58		Page 60
	e		6
1		1	
1	Q Oh, great.	1	A Well, yeah, I can see it.
	Q Oh, great. 09:47:48		A Well, yeah, I can see it. 09:50:25
2	Q Oh, great. 09:47:48 And then to the right of that, do you see	2	A Well, yeah, I can see it. 09:50:25 Q And I will highlight in blue here the
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Q And if we look at the top of that, do you 09:53:56 25 And so what I'm referring to, Mr. Sessa, 09:56:25	23				only goes to like 21 of the	
					•	
Page 63 Page 65	25	Q And if we look at the top of that, do you		25	2 , ,	
			Page 63		Page 6	55

1 is the paragraph numbers to the right of that. 09:56:28 2 So I think you are looking at the line 1 A No 09:59:08 2 Q Do you know when these images were	
2 So I think you are looking at the line 2 O Do you know when these images were	
3 numbers on the side. 3 captured from Ancestry's website?	
4 A Okay. 4 A No	
5 Q But I am referring to the paragraph 5 Q And if we look down below at the	
09:56:36	
6 number. 6 screenshot, it says results 1 through 4 of 4	
7 Do you see the number 39 there? 7 Do you see that?	
10 sentence says, 10 Do you see that below the picture?	
09:56:44 09:59:45	
11 "A screenshot showing the results 11 A One through 4 of 4, yes	
12 of a search for Mark Sessa's name 12 Q And is it your understanding that this	
on Ancestry.com is shown below." 13 search of your name on Ancestry's website pulled up	
14 Do you see that? 14 four results?	
15 A Yes. 15 A Yes	
09:56:52	
16 Q And is it your understanding that these 16 Q Do you know whether any of your other	
17 images that follow and we can scroll through 17 yearbook records appear on Ancestry's website?	
18 them but is it your understanding that these 18 A No	
19 reflect the search results for your name in 19 Q Is it your understanding, Mr Sessa, that	
20 Ancestry's yearbook database? 20 these are the four yearbook records on which your	
09:57:07	
21 A Would you repeat that, please. 21 claims against Ancestry are based?	
22 Q Sure. 22 MR STRAUSS: Object to the form of the	
23 Is it your understanding that these images 23 question	
	10.00.20
25 name in Ancestry's yearbook database? 09:57:24 25 THE WITNESS: Would you repeat the Page 66	10:00:38 Page 68
1 age 00	1 age 00
1 A I don't know. I mean so you're 1 question, please.	
09:57:32	
2 Q If I zoom in here a little bit, Mr. Sessa, 2 BY MR. BAUMANN:	
3 and we look down at the images here, are you able to 3 Q Of course.	
4 see those? 4 Is it your understanding, Mr. Sessa, that	
5 A Okay. Yeah, yes, I am. 5 these are the four yearbook records on which your	
09:58:04	
6 Q Great. So 6 claims against Ancestry are based?	
7 A There is four images. 7 MR. STRAUSS: Same objection.	
į ,	
10 "A screenshot showing the results 10 BY MR. BAUMANN:	
09:58:19 10:00:53	
of the search for Mark Sessa's name 11 Q Are you aware of any other yearbook	
on Ancestry.com is shown below." 12 records on Ancestry's website depicting you other	
And you see that, correct? 13 than these four that we're looking at here?	
1.14 A V	
14 A Yes. 14 A I wouldn't know.	
15 Q And is it your understanding that these 15 Q I'm going to zoom in here on the fourth	
15 Q And is it your understanding that these 09:58:30 15 Q I'm going to zoom in here on the fourth 10:01:13	
15 Q And is it your understanding that these 15 Q I'm going to zoom in here on the fourth	
15 Q And is it your understanding that these 09:58:30 15 Q I'm going to zoom in here on the fourth 10:01:13	
15 Q And is it your understanding that these 09:58:30 15 Q I'm going to zoom in here on the fourth 10:01:13 16 images that follow in this paragraph 39, the ones we	
15 Q And is it your understanding that these 09:58:30 16 images that follow in this paragraph 39, the ones we 17 were just looking at 18 Q I'm going to zoom in here on the fourth 10:01:13 16 record down here. 17 And are you able to see an image on the	
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15 Q And is it your understanding that these 09:58:30 16 images that follow in this paragraph 39, the ones we 17 were just looking at 18 A Yes. 19 Q reflect the search for your name in 20 Ancestry's yearbook database? 15 Q I'm going to zoom in here on the fourth 10:01:13 16 record down here. 17 And are you able to see an image on the 18 fourth record down on the far right side here? 19 A Yes, barely. It looks like a group photo 20 but I don't know of what or I can't yeah, I	
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15 Q And is it your understanding that these 09:58:30 16 images that follow in this paragraph 39, the ones we 17 were just looking at 18 A Yes. 19 Q reflect the search for your name in 20 Ancestry's yearbook database? 09:58:40 21 A Yes. 15 Q I'm going to zoom in here on the fourth 10:01:13 16 record down here. 17 And are you able to see an image on the 18 fourth record down on the far right side here? 19 A Yes, barely. It looks like a group photo 20 but I don't know of what or I can't yeah, I 10:01:33 21 can't distinguish what it is.	
15 Q And is it your understanding that these 09:58:30 16 images that follow in this paragraph 39, the ones we 17 were just looking at 18 A Yes. 19 Q reflect the search for your name in 20 Ancestry's yearbook database? 19 Q reflect the search for your name in 20 Ancestry's yearbook database? 109:58:40 21 A Yes. 22 Q Do you know who conducted these searches? 15 Q I'm going to zoom in here on the fourth 10:01:13 16 record down here. 17 And are you able to see an image on the 18 fourth record down on the far right side here? 19 A Yes, barely. It looks like a group photo 20 but I don't know of what or I can't yeah, I 10:01:33 21 can't distinguish what it is. 22 Q So it's pretty small.	
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15 Q And is it your understanding that these 09:58:30 16 images that follow in this paragraph 39, the ones we 17 were just looking at 18 A Yes. 19 Q reflect the search for your name in 20 Ancestry's yearbook database? 19 Q reflect the search for your name in 20 Ancestry's yearbook database? 21 A Yes. 22 Q Do you know who conducted these searches? 23 A No. 15 Q I'm going to zoom in here on the fourth 10:01:13 16 record down here. 17 And are you able to see an image on the 18 fourth record down on the far right side here? 19 A Yes, barely. It looks like a group photo 20 but I don't know of what or I can't yeah, I 10:01:33 21 can't distinguish what it is. 22 Q So it's pretty small. 23 I take it you wouldn't be able to identify	10:02:01 Page 69

1	Q And do you know whether you appear in that	1	MR. STRAUSS: Got it.
	10:02:07		10:05:07
2	thumbnail image?	2	Well, okay, well, because I might be
3	A No.	3	experiencing delayed connectivity, I guess what I
4	Q So for these images above, as I understand	4	would ask is just wait a moment before you answer.
5	it, your counsel applied some blurring software.	5	THE WITNESS: Sure, sorry.
	10:02:22		10:05:19
6	I'm not sure whether that was applied to this fourth	6	MR. STRAUSS: No problem, and it's
7	image but just to be sure, I will take this down for	7	probably on my end. Sorry for all of this dialogue
8	one second and I'm going to mark another exhibit,	8	on the record, Jack. It's back to you.
9	Exhibit 5.	9	
1		_	MR. BAUMANN: No problem, and thank you,
10	(Deposition Exhibit 5 was marked	10	Sam.
١	10:02:38	١	10:05:30
11	for identification by the court	11	BY MR. BAUMANN:
12	reporter and is attached hereto.)	12	Q So I was asking about the second image on
13	MR. BAUMANN: And I will add that to the	13	this Exhibit 5, the black and white one, and I was
14	share folder and then Sam, if you can let me know	14	asking whether you are able to identify yourself in
15	when you have it, I will share my screen with	15	that image, Mr. Sessa.
	10:02:45		10:05:40
16	Mr. Sessa.	16	Are you able to do so?
17	MR. STRAUSS: I have it, yes.	17	A Yes.
18	BY MR. BAUMANN:	18	Q And where do you appear in that image?
19	O Great.	19	A In the very back to the right.
20	And Mr. Sessa, I'm going to pull up what	20	Q And Mr. Sessa, are you able to see your
20	10:03:02	- "	10:06:08
21	has been marked as Exhibit 5 and I can zoom in.	21	face in that image?
22	Mr. Sessa, are you able to see this	22	A No.
		23	
23	document on your screen?		Q How do you know that is you in the back to
24	A Yes.	24	the right?
25	Q And do these images on this document 10:03:25	25	A I remember this picture. 10:06:26
	Page 70		Page 7
1	and we can go back to it appear to be the same	1	O You remember taking the nicture?
1	and we can go back to it appear to be the same 10:03:30	1	Q You remember taking the picture?
	10:03:30		10:06:32
2	10:03:30 images reflected in paragraph 39 of your complaint?	2	10:06:32 A No, I remember somebody else taking the
2 3	10:03:30 images reflected in paragraph 39 of your complaint? A They seem to be.	2 3	10:06:32 A No, I remember somebody else taking the picture.
2 3 4	10:03:30 images reflected in paragraph 39 of your complaint? A They seem to be. Q So if we zoom in now, Mr. Sessa, on the	2 3 4	10:06:32 A No, I remember somebody else taking the picture. Q And you remember seeing this picture?
2 3	images reflected in paragraph 39 of your complaint? A They seem to be. Q So if we zoom in now, Mr. Sessa, on the group photo we were looking at earlier, are you able	2 3	10:06:32 A No, I remember somebody else taking the picture. Q And you remember seeing this picture? A Yes.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 166 17 18 19 20 21 22 23 24	images reflected in paragraph 39 of your complaint? A They seem to be. Q So if we zoom in now, Mr. Sessa, on the group photo we were looking at earlier, are you able 10:03:56 to see that on your screen? A Yes. Q And are you able to identify yourself in this top thumbnail here, the red one that appears to be a group picture? 10:04:15 A On the very top one? Q Correct. A No. Q What about in the picture below that, the black and white one that appears to be another group 10:04:36 picture, are you able to identify yourself in that image? A I'm sitting behind the drum set. MR. STRAUSS: Sorry to jump in, Jack and Mr. Sessa, and I know I am a broken record but, 10:04:51 Mr. Sessa, will you, please, wait for Mr. Baumann to finish his question. THE WITNESS: I think I think there might be a glitch because I am hearing the entire	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	10:06:32 A No, I remember somebody else taking the picture. Q And you remember seeing this picture? A Yes. 10:06:42 Q And where did you see it? A That, I don't remember. Q Do you remember when you last saw this picture? A When I last saw this picture? 10:06:58 Q Yes. A No. Q And the version of this picture that you saw, was it a small thumbnail version like we're looking at here? 10:07:14 A No. Q Was it in higher resolution such that you could see people's faces? A Yes. Q Had you had not seen that 10:07:27 higher-resolution version of this picture earlier, would you be able to identify yourself in this thumbnail image we are looking at here? A Yes.

1				
	A I was there when the picture was taken.	1	visible in that thumbnail image?	
1	10:07:48		10:10:26	
2	Q So you would agree, Mr. Sessa, that you	2	A Well, it's visible.	
3	can't see your face in this picture, correct?	3	Q This is the black and white group photo	
4	•	4	that we were just looking at a moment ago	
5	Q And had you not been in the picture, you	5	A Yes.	
-	10:08:15		10:10:41	
6	wouldn't be able to identify who is Mark Sessa	6	Q in Exhibit 5.	
7	amongst the people in this picture, correct?	"	*	
		7	And in that thumbnail image of this black	
8		8	and white photo that we were looking at on	
9	\ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \	9	Exhibit 5, which is the thumbnail photo that appears	
10	and I am going to jump back to Exhibit 1 which is	10	first in this paragraph 39, you weren't able to see	
١	10:08:38		10:10:54	
11	the complaint in this case that we were looking at	11	your face in that picture, were you, Mr. Sessa?	
12	previously, and in particular at paragraph 39 that	12	A No.	
13	you're looking at.	13	Q So you would disagree with this allegation	
14	And I will share my screen with you,	14	in paragraph 39 of your complaint that Mark Sessa's	
15	Mr. Sessa, and let me know when you are able to see	15	face is plainly visible and identifiable in those	
	10:08:54		10:11:11	
16	it.	16	two images, right?	
17	A Uh-huh.	17	MR. STRAUSS: Object to the form of the	
18	Q Are you able to see that?	18	question.	
19		19	You can answer, Mr. Sessa.	
20		20	THE WITNESS: Well, in the two that I am	
- "	10:09:10		10:11:39	
21	"In the original records Ancestry	21	looking at, I know that I am in the top one, but as	
22	created and is currently using Mark	22	far as the bottom one, no.	
23	Sessa's face is plainly visible and	23	BY MR. BAUMANN:	
24	- · ·	_		
25		24	Q Right.	10.11.56
23	,	25	And my question, Mr. Sessa, was a little	10:11:56
	Page 74			Page 76
1	A Yes.	1	bit different, not whether you knew if you were in	
	10:09:26		10:11:57	
2	Q And before that, it says,	2	the photo or not, but my question is specifically do	
3	"To protect their privacy,	3	you agree that in those two group photos we just	
4	throughout this complaint	4	looked at your face is not plainly visible and	
5	Plaintiff's counsel have used	_		
	I lamitili s counsel have used	5	identifiable?	
	10.00.31	5	identifiable?	
6	10:09:31		10:12:12	
6	photo-editing software to obscure	6	10:12:12 A On these particular two, no.	
7	photo-editing software to obscure Mark Sessa's face and the names and	6 7	10:12:12 A On these particular two, no. Q And I think we have a double negative	
7 8	photo-editing software to obscure Mark Sessa's face and the names and images of other students."	6 7 8	10:12:12 A On these particular two, no. Q And I think we have a double negative again with the record.	
7 8 9	photo-editing software to obscure Mark Sessa's face and the names and images of other students." Do you see that?	6 7 8 9	10:12:12 A On these particular two, no. Q And I think we have a double negative again with the record. So just to be clear, your face is not	
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7 8 9 10	photo-editing software to obscure Mark Sessa's face and the names and images of other students." Do you see that? A Yes. 10:09:41 Q But then it goes on to say, as I	6 7 8 9 10	10:12:12 A On these particular two, no. Q And I think we have a double negative again with the record. So just to be clear, your face is not plainly visible and identifiable in the two group 10:12:29 picture thumbnails that we looked at that appear in	
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7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	photo-editing software to obscure Mark Sessa's face and the names and images of other students." Do you see that? A Yes. 10:09:41 Q But then it goes on to say, as I understand it and you can correct me if I am wrong had that photo software not been used, Mark Sessa's face is plainly visible and identifiable in the images. 10:09:57 Do you see that? A Uh-huh. Q So we just looked at the thumbnail of this group picture at the very bottom and you would agree your face wasn't really visible in that thumbnail of 10:10:09 the group picture, correct?	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A On these particular two, no. Q And I think we have a double negative again with the record. So just to be clear, your face is not plainly visible and identifiable in the two group 10:12:29 picture thumbnails that we looked at that appear in this paragraph 39 and that were also in that Exhibit 5 we were just looking at, correct? A In these two photos, that is correct. Q So if we look back up at paragraph 39 10:12:49 here and I'm going to highlight a sentence it says, "These pages are accessible both to paying subscribers and to users of Ancestry's promotional 14-day 'free 10:13:03 trial.'"	
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7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	photo-editing software to obscure Mark Sessa's face and the names and images of other students." Do you see that? A Yes. 10:09:41 Q But then it goes on to say, as I understand it and you can correct me if I am wrong had that photo software not been used, Mark Sessa's face is plainly visible and identifiable in the images. 10:09:57 Do you see that? A Uh-huh. Q So we just looked at the thumbnail of this group picture at the very bottom and you would agree your face wasn't really visible in that thumbnail of 10:10:09 the group picture, correct? A Correct. Q And the same was true of the first group	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	A On these particular two, no. Q And I think we have a double negative again with the record. So just to be clear, your face is not plainly visible and identifiable in the two group 10:12:29 picture thumbnails that we looked at that appear in this paragraph 39 and that were also in that Exhibit 5 we were just looking at, correct? A In these two photos, that is correct. Q So if we look back up at paragraph 39 10:12:49 here and I'm going to highlight a sentence it says, "These pages are accessible both to paying subscribers and to users of Ancestry's promotional 14-day 'free 10:13:03 trial.'" Do you see that? A Yes.	10:13:16 Page 77

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in this paragraph 39 that the user has to sign up
                                                                          A If you join or have a fourteen-day free
                                                                      10:16:12
     for Ancestry either as a free trial user or a paying
                                                                       trial, you can see my picture
                                                                    2
 3
     subscriber?
                                                                    3
                                                                          Q And I think you said -- and apologies if I
 4
            MR. STRAUSS: Object to the form of the
                                                                        already asked this -- but do you know who captured
 5
     question.
                                                                        these images in paragraph 39?
    10:13:31
                                                                      10:16:31
            You may answer it, Mr. Sessa.
 6
                                                                    6
                                                                          A No
 7
            THE WITNESS: Well, it appears to me that
                                                                    7
                                                                          Q Setting aside the person who captured
 8
     it says that these are available to those who sign
                                                                        these images, do you know whether any free trial
     up for the fourteen-day free trial but that doesn't
                                                                        user on Ancestry's website has ever searched for
10
     mean that anybody else can't see these pictures.
                                                                       your name on the site?
    10:13:52
                                                                      10:16:50
     BY MR. BAUMANN:
11
                                                                   11
12
         Q And do you know whether anybody else --
                                                                   12
                                                                          Q And again, setting aside whoever captured
13
     sorry, I did not mean to cut you off. Go on.
                                                                        these images in paragraph 39, do you know whether
14
            Were you finished with your answer,
                                                                        any paying subscriber has ever searched your name on
15
     Mr. Sessa?
                                                                       Ancestry's website?
    10:14:06
                                                                      10:17:11
16
         A Yes.
                                                                   16
                                                                          A No
         Q And do you know whether anybody other than
17
                                                                   17
                                                                          Q I want to the turn away from this
     paying subscribers and fourteen-day free trial users
                                                                        Exhibit 1 for a moment and I will stop sharing my
                                                                    18
     can access the images that are reflected in this
                                                                        screen and I want you to --
                                                                   19
20
     paragraph 39?
                                                                             MR STRAUSS: Before we go to your next
                                                                   20
    10:14:22
                                                                      10:17:38
21
         A I don't know.
                                                                   21
                                                                       line of questions, would now be an okay time for a
22
         Q So do you have an understanding as you sit
                                                                   22
                                                                        break?
23
     here today whether somebody must be a subscriber to
                                                                   23
                                                                             MR BAUMANN: Absolutely
24
     Ancestry's services to access the images reflected
                                                                   24
                                                                             MR STRAUSS: So Jack, this is your
25
     in this paragraph 39?
                                                      10:14:39
                                                                   25
                                                                                                                        10:17:48
                                                                        deposition and I want to be respectful but how would
                                                          Page 78
                                                                                                                             Page 80
                                                                    1
                                                                         you feel about a ten- or fifteen-minute break?
 1
           MR. STRAUSS: Object to the form of the
   10:14:44
                                                                       10:17:51
                                                                    2
                                                                               MR. BAUMANN: All good.
     question.
 2
 3
           You may answer it, Mr. Sessa.
                                                                    3
                                                                               THE VIDEOGRAPHER: Going off the record.
                                                                    4
                                                                               The time is 10:17 a m.
 4
           THE WITNESS: My Internet is -- it's gone,
                                                                    5
                                                                               (Off the record.)
 5
    but I didn't hear the last part of your -- what you
                                                                       10:18:01
   10:15:07
                                                                               THE VIDEOGRAPHER: Back on the record.
                                                                    6
    were saying, Sam.
 6
           MR. STRAUSS: So I will tell you before
                                                                    7
                                                                               The time is 10:32 a m.
 7
                                                                    8
                                                                         BY MR. BAUMANN:
    Mr. Baumann asks the question again that I am
                                                                    9
                                                                            Q Mr. Sessa, I want to take a look at
 9
    objecting to the form of the question and then I
                                                                   10
10
    won't -- I won't make that objection at the end. I
                                                                         another document which has been marked as Exhibit 6.
                                                                       10:32:13
11 will make it at the beginning so if Mr. Baumann
                                                                   11
                                                                               (Deposition Exhibit 6 was marked
                                                                   12
                                                                               for identification by the court
wants to ask the question, that objection is
                                                                   13
                                                                               reporter and is attached hereto.)
13 attached to it, but I also said you may answer
                                                                   14
                                                                               MR. BAUMANN: And Sam, if you could let me
14 the question.
15 BY MR. BAUMANN:
                                                                   15
                                                                        know once you see that in your folder, I can pull it
   10:15:41
                                                                   16
                                                                         up on my screen and share it with Mr. Sessa.
16
       Q And Mr. Sessa, I assume you need me to
                                                                   17
                                                                               MR. STRAUSS: I see it.
17
    repeat the question?
                                                                   18
                                                                         BY MR. BAUMANN:
18
        A Correct. I did not hear it.
                                                                   19
19
                                                                            Q Mr. Sessa, I am sharing my screen with you
        Q Do you have an understanding as you sit
                                                                   20
                                                                        now with the document that has been marked as
20
   here today whether somebody must be a subscriber
                                                                       10:32:37
                                                                   21
    to Ancestry's services to access the images that
                                                                         Exhibit 6 which is a document produced here as
                                                                   22
22
     are reflected in this Exhibit 39 -- sorry --
                                                                         Ancestry 000003.
23
     paragraph 39?
                                                                   23
                                                                                Are you able to see that document,
24
                                                                   24
                                                                         Mr. Sessa?
25
          And what is your understanding?
                                                       10:16:07
                                                                   25
                                                                            A I am.
                                                                                                                     10:32:48
                                                          Page 79
                                                                                                                             Page 81
```

1	Q And do you recognize this document?	1	him in this picture?
	10:32:50		10:35:12
2	A Yes.	2	A I do not.
3	Q And what is it?	3	Q So this says that Kent Sevy appeared
4	A It's a picture of the Blue Freedom	4	sorry. Go on.
5	Singers. It's kind of like a pop band that I was	5	A No, go ahead.
	10:33:02		10:35:21
6	in in high school.	6	Q I was going to say this says that Kent
7	Q And do you appear in this picture?	7	Sevy appears in the picture but it doesn't appear
8	A Excuse me?	8	that he, in fact, does, right?
9	Q Do you appear in this picture?	9	A Well, all the way to the far right, you
10	A I do.	10	can see Kent half of Kent's head.
11	10:33:18	١.,	10:35:34
11	Q And where are you in this picture?	11	Q And you would agree that you can't see
12	A I am in the very back sitting behind the	12	Kent's face in this picture, correct?
13	drum set.	13	A No, I agree.
15	Q And do you have an understanding, Mr. Sessa, as to whether this picture is the picture	14	Q And if you were not in the band with Kent,
13	10:33:31	15	would you have been able to identify that that was 10:35:55
16	that was reflected in the thumbnail that we were	16	Kent in this photograph?
17	looking at earlier in Exhibit 5?	17	MR. STRAUSS: Object to the form of the
18	A Yes.	18	question.
19	Q And if you look down at the subscription	19	You may answer, Mr. Sessa.
20	below this image I will scroll down here and I	20	THE WITNESS: I wouldn't be able to
	10:33:54		10:36:09
21	will zoom in are you able to see the text that is	21	identify him.
22	written down below here?	22	BY MR. BAUMANN:
23	A I can read the larger one but	23	Q And I'm sorry, my audio cut out just a
24	Q I can zoom in even more on the lower ones.	24	little bit. So I didn't catch your response.
25	A I can now. 10:34:12	25	What was your response? 10:36:18
	Page 82		Page 84
_		_	
1	Q And do you see and I will scroll as I	1	A I would not be able to identify him.
1	Q And do you see and I will scroll as I 10:34:14	1	A I would not be able to identify him. 10:36:19
1 2	•	1 2	
	10:34:14		10:36:19
2	10:34:14 read it because we zoomed in quite a bit but it says, "This page, top row, Gary Peterson,	2	10:36:19 Q So based on this picture alone, you wouldn't be able to tell whether that half figure on the right is or isn't Kent Sevy; is that right?
2 3	10:34:14 read it because we zoomed in quite a bit but it says,	2 3	10:36:19 Q So based on this picture alone, you wouldn't be able to tell whether that half figure on
2 3 4	10:34:14 read it because we zoomed in quite a bit but it says, "This page, top row, Gary Peterson,	2 3 4	10:36:19 Q So based on this picture alone, you wouldn't be able to tell whether that half figure on the right is or isn't Kent Sevy; is that right? A Yes. 10:36:37
2 3 4	10:34:14 read it because we zoomed in quite a bit but it says, "This page, top row, Gary Peterson, Roger Ghormley, Mark Sessa and Kent 10:34:22 Sevy."	2 3 4	10:36:19 Q So based on this picture alone, you wouldn't be able to tell whether that half figure on the right is or isn't Kent Sevy; is that right? A Yes.
2 3 4 5	10:34:14 read it because we zoomed in quite a bit but it says, "This page, top row, Gary Peterson, Roger Ghormley, Mark Sessa and Kent 10:34:22 Sevy." Do you see that?	2 3 4 5	10:36:19 Q So based on this picture alone, you wouldn't be able to tell whether that half figure on the right is or isn't Kent Sevy; is that right? A Yes. 10:36:37 MR. STRAUSS: Object to the form of the question.
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1	first sentence,	1	paragraph 43?
	10:37:26		10:40:15
2	"A screenshot showing the	2	A I am not sure
3	results of a search for Mark	3	Q And I will scroll back up to paragraph 43
4	Sessa's name on the promotional	4	so you can look at those again sorry, paragraph
5	limited-access version of the	5	39
	10:37:33		10:40:32
6	Ancestry website is shown below."	6	So here are the search results in
7	Do you see that?	7	paragraph 39
8	A Uh-huh.		
9		8	Are you able to see those?
1	Q And what does "promotional limited-access version" mean?	9	A Where it says results one of four?
10		10	Q Yes, correct
١.,	10:37:46		10:40:41
11	A It's on a trial base for a limited amount	11	A Yes
12	of time.	12	Q So take a look at those search results in
13	Q So we had looked up earlier, Mr. Sessa,	13	paragraph 39
14	and we can scroll back up to paragraph 39.	14	And paragraph 39 was the one that said it
15	Do you see that?	15	was accessible to paying subscribers and
	10:38:13		10:40:50
16	A Yes.	16	fourteen-day free trial users, correct?
17	Q And so this says,	17	A Correct
18	"A screenshot showing the results	18	Q So remember what those search results look
19	of Mark Sessa's name on	19	like, and then I'm going to go back down to
20	Ancestry.com is shown below."		
20	10:38:31	20	paragraph 43
21		l	10:41:04
21	And then it goes on to say,	21	And are you able to see those search
22	"These pages are accessible both to	22	results in paragraph 43 of your complaint?
23	paying subscribers and to users of	23	A Yes
24	Ancestry's promotional 14-day 'free	24	Q And these search results reflected in the
25	trial.''' 10:38:44	25	screenshot of paragraph 43 of your complaint may 10:41:28
	Page 86		Page 88
	D 4 49	1	1-1-1:00-41-41-41-4-4
1	Do you see that?	1	look different than the ones we just looked at in
	10:38:45		10:41:32
2	10:38:45 A Yes.	2	10:41:32 paragraph 39 of your complaint, right?
	10:38:45 A Yes. Q So going back to paragraph 43, paragraph		10:41:32 paragraph 39 of your complaint, right? A Yes.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	10:38:45 A Yes. Q So going back to paragraph 43, paragraph 39 referred to the promotional fourteen-day free trial, and this paragraph 43 refers to promotional 10:39:02 limited-access version. Do you have an understanding whether there is a difference between those two? A I don't know. Q And then if we look at the screenshots 10:39:21 that follow in this paragraph 43 and I will scroll down are you able to see those? A No. Q Let me zoom in a bit and you can tell me if you are able to see it a bit better. 10:39:37 Are you able to see these screenshots reflected on this page? And I can scroll around as needed. A Yes. Q And these look a little different than 10:39:55 these search results that we were looking at in paragraph 43, and I can scroll back up to those if you need to refresh your recollection on what they look like, but would you agree that these look	2 3 4 5 6 7 8 9 10 11 12 13 14 15 166 17 18 19 20 21 22 23 24	paragraph 39 of your complaint, right? A Yes. Q And we see here in the sorry, I didn't mean to cut you off. 10:41:48 A The other ones had my pictures and this one just has where it says show image. You probably have to click on it to see my pictures. Q Right. So what I'm trying to understand is 10:42:01 whether you know why the search results in paragraph 43 which says these are accessible to promotional limited access-version users look different than those in paragraph 39 which said that they were visible to paying subscribers and 10:42:21 fourteen-day free trial users. Do you have an understanding as to why these two look different from one another? A No. Q Moving back up to paragraph 39, do you 10:42:41 know whether these images reflected here are available to promotional limited-access users of Ancestry's website? A No.

1	paragraph 43, and we are looking at the search	1	Q I will take that one down.
	10:43:17		10:46:29
2	results here which reflect your name and then it	2	I want to jump back to the complaint again
3	says "Nevada, USA "	3	which we had marked as Exhibit 1, and I'm going to
4	Are you able to see those?	4	share my screen with you, Mr. Sessa, and you can let
5	A Underneath the headings "All U S School	5	me know when you are able to see it.
	10:43:30		10:46:50
6	Yearbooks, 1990-1999"?	6	Are you able to see that?
7	Q Correct	7	A Yes.
8	A It says it's got my name and state and	8	Q And I want to take a look at paragraph 44
9	USA, and like I say, it's got little tabs you can	9	here which goes from the bottom of page 21 up and
10	click on that says "see image "	10	through page 22.
	10:44:00		10:47:03
11	That is what I see	11	Do you see that?
12	Q And do you know as you sit here right now	12	A Where it says paragraph 44?
13	whether any of these four results that are listed	13	Q Correct. And I can highlight.
14	here are your yearbook record as opposed to another	14	A Yeah, I see it.
15	Mark Sessa's yearbook record?	15	Q And I want to direct your attention in
	10:44:18	13	10:47:16
		16	
16	A No	17	particular to the last sentence in this paragraph, which I will highlight here and I can zoom in more
17	Q Do you know whether any user of Ancestry's	18	if you need it.
18 19	website has ever searched for your name on the site?	19	
	A No	20	Let me know, are you able to see that, Mr. Sessa?
20	MR STRAUSS: Object to form	20	
	10:44:44	21	10:47:33
21	You may answer it	21	A Yes.
22	THE WITNESS: No	22	Q And that says,
23	BY MR BAUMANN:	23	"Upon information and belief,
24	Q I want to take this down and I want to the	24	Ancestry has and continues to send
25	look at Exhibit 4 again which is a document that we 10:44:59	25	targeted promotional and email 10:47:41
	Page 90		Page 92
1	previously looked at and I will share my screen with	1	messages including Mark Sessa's
	10:45:05		10:47:43
2	you, Mr. Sessa.	2	name, photograph, and likeness "
3	And I will zoom way in because and you	3	Do you see that?
4	will be able to see it better.	4	A Uh-huh
5	And do you recall, Mr. Sessa, that we were	5	Q And
	10:45:20		
6			10:47:52
	looking at this Exhibit 4 previously?	6	10:47:52 A Yes
1	looking at this Exhibit 4 previously? A Yes.	6	A Yes
7	A Yes.	7	A Yes Q And what is your basis for that
7 8	A Yes. Q And we saw what I was referring to as this	7 8	A Yes Q And what is your basis for that allegation?
7 8 9	A Yes. Q And we saw what I was referring to as this pop-up here that says "Mark Sessa" at the top.	7 8 9	A Yes Q And what is your basis for that allegation? A I saw my pictures
7 8	A Yes. Q And we saw what I was referring to as this pop-up here that says "Mark Sessa" at the top. Do you see that?	7 8	A Yes Q And what is your basis for that allegation? A I saw my pictures Q And have you ever seen any of your
7 8 9 10	A Yes. Q And we saw what I was referring to as this pop-up here that says "Mark Sessa" at the top. Do you see that? 10:45:40	7 8 9 10	A Yes Q And what is your basis for that allegation? A I saw my pictures Q And have you ever seen any of your 10:48:12
7 8 9 10	A Yes. Q And we saw what I was referring to as this pop-up here that says "Mark Sessa" at the top. Do you see that? 10:45:40 A Yes.	7 8 9 10	A Yes Q And what is your basis for that allegation? A I saw my pictures Q And have you ever seen any of your 10:48:12 pictures in a targeted promotional E-mail?
7 8 9 10 11 12	A Yes. Q And we saw what I was referring to as this pop-up here that says "Mark Sessa" at the top. Do you see that? 10:45:40 A Yes. Q And then down below that there is a	7 8 9 10 11 12	A Yes Q And what is your basis for that allegation? A I saw my pictures Q And have you ever seen any of your 10:48:12 pictures in a targeted promotional E-mail? A No
7 8 9 10 11 12 13	A Yes. Q And we saw what I was referring to as this pop-up here that says "Mark Sessa" at the top. Do you see that? 10:45:40 A Yes. Q And then down below that there is a thumbnail image.	7 8 9 10 11 12 13	A Yes Q And what is your basis for that allegation? A I saw my pictures Q And have you ever seen any of your 10:48:12 pictures in a targeted promotional E-mail? A No Q So sticking specifically with the
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1	including your information has ever been sent to		1	Are you able to see this document,	
	10:49:11			10:52:36	
2	anyone?		2	Mr. Sessa?	
3	MR. STRAUSS: Object to the form of the		3	A Yes, I am.	
4	question.		4	Q So in paragraph 22 of your complaint, you	
5	You may answer it.		5	say that you are not a subscriber of any	
	10:49:18			10:52:47	
6	THE WITNESS: I don't know.		6	Ancestry.com products or services.	
7	BY MR. BAUMANN:		7	Do you see that?	
8	Q Do you know what a targeted promotional		8	A Which line?	
9	E-mail message is?		9	Q And I will highlight it right here,	
10	A An E-mail that is sent to a specific		10	paragraph 22. Sorry, this is	
١	10:49:34		١	10:53:09	
11	person or group of persons.		11	A That is my brother.	
12	Q And do you have an understanding of what		12	Q Let me move down to the correct paragraph	
13	information appears in targeted promotional E-mails?	•	13	for you, which is let's see. Here we go.	
14	A Specific to what?		14	Looking at paragraph 34 in your complaint,	
15	No, I don't. I don't know what goes into		15	Mr. Sessa, and I can highlight it here, it says,	
1.6	10:50:02		16	10:53:55 "Plaintiff Mark Sessa is a	
16 17	them. Q Do you know whether the targeted		17	resident of Las Vegas, Nevada.	
18	promotional E-mails referenced in paragraph 44 of		18	Mark Sessa is not a subscriber of	
19	your complaint contain any person's name?		19	any of Ancestry.com products or	
20	A No.		20	services."	
20	10:50:19		20	10:54:07	
21	Q Do you know whether the targeted		21	Do you see that?	
22	promotional E-mails referenced in paragraph 44 of		22	A Yes.	
23	your complaint contain anyone's photograph?		23	Q So based on that allegation, do you have	
24	A No.		24	an understanding as to whether certain individuals	
25		10:50:36	25	are subscribers to Ancestry.com products or	10:54:18
	2 1 ms paragraph, and in paraeasa are	Page 94		are successions to random products or	Page 96
1	sentence we are looking at, refers to the term		1	services?	
2 3	10:50:41 "likeness" in addition to name and photograph. What do you understand a likeness to be?		2 3	10:54:22 MR. STRAUSS: Object to the form of the question.	
3 4	"likeness" in addition to name and photograph. What do you understand a likeness to be? A It could be a drawing.		3 4	MR. STRAUSS: Object to the form of the question. You may answer it, Mr. Sessa.	
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1	media profiles?	1	A I rarely go on there. So I am not sure if
	10:55:45		10:58:53
2	Sorry, were you able to hear my question?	2	it's my name or if it's Roger name.
3	A I am sorry, no.	3	Q And I can pull up a document real quick
4	Q Do you maintain any social media profiles?	4	here which let me add to our exhibit folder first.
5	A Yes.	5	(Deposition Exhibit 7 was marked
	10:56:09		10:59:18
6	Q And what social media profiles do you	6	for identification by the court
7	have?	7	reporter and is attached hereto.)
8	A Facebook, LinkedIn. There might be a	8	MR. BAUMANN: And Sam, let me know when
	couple of more that I don't remember at this time.	9	· ·
9	÷		you are able to get that document.
10	Q Do you have a Twitter?	10	MR. STRAUSS: I have it.
١	10:56:40	١	10:59:43
11	A I'm not sure.	11	MR. BAUMANN: Great.
12	Q Do you have an Instagram?	12	BY MR. BAUMANN:
13	A I believe so. I don't use them, so I'm	13	Q So this, Mr. Sessa I will share my
14	not quite sure.	14	screen is a document that has now been marked as
15	Q So I think you recalled that you had a	15	Exhibit 7. I will pull this up.
	10:57:06		10:59:53
16	Facebook profile.	16	Are you able to see that document?
17	A I do.	17	A Yes.
18	Q Do you put pictures of yourself on your	18	Q And do you recognize that document?
19	Facebook profile?	19	A Yes.
20	A I do.	20	Q And what is that?
	10:57:17		11:00:14
21	Q And do you share your name on your	21	A It's a picture of me and my work at
22	Facebook profile?	22	Trader Joe's but I'm not sure I think this is
23	A I don't believe so.	23	LinkedIn.
24	Q It's your understanding that your Facebook	24	Q And if we look at the top of this page, it
25	profile doesn't have your name? 10:57:34	25	says Mark Sessa, Section Leader, Trader Joe's 11:00:42
23	Page 98	23	Page 100
			<u> </u>
1	A It's under a different name.	1	LinkedIn.
	10:57:37		11:00:46
2	Q And what name do you have your Facebook	2	Do you see that?
3	profile under?	3	A Yes.
4	A "Roger Rhythm."	4	Q And do you understand this to be your
5	Q And why do you use that name, Mr. Sessa?	5	LinkedIn page?
	10:57:48		11:00:52
6	A Because I am a drummer.	6	A I believe so.
7	Q What about on your LinkedIn, Mr. Sessa,	7	Q And I can scroll down on it, as well, if
8	have you shared photographs of yourself on your		
9	nave jeur snareu prievegrupne er jeursen en jeur	8	
_	LinkedIn?	8	you need to see more.
10	LinkedIn? A. Lam not sure	9	you need to see more. That is a position you held, correct,
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1	Q Have you ever tried to find another		1	something in mind for how it might be used to 11:05:18
,	11:01:56		2	
2	person's LinkedIn profile?		3	promote LinkedIn.
3	A I don't remember		4	What did you have in mind? MR. STRAUSS: Same objection.
4	Q To the best of your understanding as you		5	You may answer it, Mr. Sessa.
5	are sitting here today, how would you go about)	11:05:26
,	11:02:21		6	THE WITNESS: My name and our photo either
6	finding another person's profile on LinkedIn?		7	separate or together with some sort of advertisement
7	A There is probably a search bar where you		8	as, you know, connect with people you haven't seen
8	put the person's name in		9	
9	Q And do you have an understanding whether			in a long time or connect with fellow musicians or
10	if someone were to go on LinkedIn and type in Mark		10	something along that line, I guess. 11:05:48
1.1	11:02:39		11	BY MR. BAUMANN:
11	Sessa they would be able to locate your LinkedIn		12	
12	profile?		13	Q And do you know whether LinkedIn does that with your picture or your name?
13	MR STRAUSS: Object to form		14	A I don't know.
14	You may answer it		15	Q Why haven't you checked?
15	THE WITNESS: Unless there is more than		13	11:06:02
1.0	11:02:51		16	
16	one Mark Sessa		17	MR. STRAUSS: Object to the form of the
17	BY MR BAUMANN:		18	question. You may answer, Mr. Sessa.
18	Q Do you have an understanding whether if		19	THE WITNESS: I don't know.
19	they searched Mark Sessa, your profile would be		20	BY MR. BAUMANN:
20	among those that are pulled up on LinkedIn?		20	11:06:18
21	11:03:07		21	Q Is it your understanding that your
21	A It should		22	information on Ancestry's website is used to promote
22 23	Q And you chose to share A Picture Of Yourself And Your Name On LinkedIn, Correct?		23	Ancestry?
24	A Yes		24	A Would you repeat the question, please.
25	Q Does LinkedIn contain any advertisements	11:03:42	25	Q Sure. 11:06:39
23	Q Boes Elikediii contain any advertisements	Page 102		Page 10-
		U		
1	on the pages that you visited?		1	Is it your understanding that the yearbook
	11:03:44			11:06:40
2	11:03:44 A I don't remember		2	11:06:40 information that is on Ancestry's website, your
2 3	11:03:44 A I don't remember Q Would it bother you if LinkedIn contained		2 3	11:06:40 information that is on Ancestry's website, your yearbook information, is used to promote Ancestry?
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appear in the Yellow Pages of a directory?
 1
    question
                                                                         11:10:53
   11:08:13
                                                                      2
                                                                              A I don't know.
2
         You may answer it
                                                                      3
                                                                              Q And as you sit here today, in your view if
         THE WITNESS: Yes
3
                                                                          your name were to appear in the White Pages
4 BY MR BAUMANN:
                                                                      5
                                                                          directory, is that using your name to promote either
       Q Why?
5
   11:08:16
                                                                         11:11:13
                                                                      6
                                                                          the businesses in the Yellow Pages or White Pages
       A If my name or likeness or picture wasn't
                                                                      7
                                                                          directory, itself?
    on there, they wouldn't be able to do that I
                                                                      8
                                                                                 MR. STRAUSS: Object to form.
    didn't give them the permission to do that
                                                                      9
                                                                                  You may answer it.
       Q And when you say "to do that," you mean to
                                                                     10
                                                                                 THE WITNESS: I don't know.
10 be --
                                                                         11:11:26
   11:08:36
                                                                          BY MR. BAUMANN:
                                                                     11
11
       A Search for my name
                                                                     12
                                                                              Q But in your view, Ancestry making your
12
       Q Does your name appear in the Las Vegas
                                                                     13
                                                                          name searchable on its website is using your name to
13
    Yellow Pages?
       A I don't know
                                                                     14
                                                                           promote Ancestry's product; is that right?
14
15
       Q Have you ever looked in a Las Vegas Yellow
                                                                     15
                                                                              A Yes, being charged -- they charge for a
                                                                         11:11:47
   11:08:54
                                                                     16
                                                                          service.
16 Pages?
                                                                              Q Have you ever visited the "New York Times"
                                                                     17
17
                                                                     18
                                                                          online?
18
       Q And in the White Pages section of those
                                                                     19
                                                                              A Yes.
    books, there is usually a directory of people's
                                                                    20
                                                                              Q And that website is behind a pay wall,
20 names and telephone numbers, right?
                                                                         11:12:15
   11:09:12
                                                                    21
                                                                          correct?
21
       A Yes
                                                                    22
                                                                              A Is behind what?
22
       Q And do you know one way or the other
                                                                    23
                                                                              Q A pay wall. You have to pay in order to
23
    whether your name has ever appeared in the Las Vegas
                                                                          read the articles, right?
                                                                    24
24
                                                                    25
                                                                              A I don't know.
                                                                                                                           11:12:32
25
         MR STRAUSS: Object to the form of the
                                                    11:09:29
                                                                                                                               Page 108
                                                          Page 106
                                                                      1
                                                                             Q Have you ever visited a news website where
1 question
   11:09:30
                                                                        11:12:33
                                                                        you have to pay to access the articles?
                                                                      2
2
         You may answer it
                                                                      3
                                                                             A No.
3
         THE WITNESS: I don't know
                                                                             Q Are you aware that for some news websites
4 BY MR BAUMANN:
5
       Q In your view, if your name appeared in the
                                                                         you have to pay to access the articles that are
                                                                        11:12:47
   11:09:35
   Las Vegas White Pages directory, is that using your
                                                                      6
                                                                         available on that news website?
    name to promote the Las Vegas White Pages directory?
                                                                      7
                                                                             A No.
8
         MR STRAUSS: Same objection
                                                                      8
                                                                                MR. STRAUSS: Object to the form of the
9
         You may answer it
                                                                      9
                                                                          question.
10
         THE WITNESS: I'm not sure They don't
                                                                     10
                                                                                You may answer.
   11:09:50
                                                                        11:12:55
11 charge for the directory
                                                                     11
                                                                                Jack, before you jump into your next
   BY MR BAUMANN:
                                                                     12
                                                                          question, I am just wondering about taking another
12
                                                                     13
                                                                          break but I don't want to interrupt a line of
13
       Q The Yellow Pages section of the directory
                                                                          questioning.
    contains advertisements for businesses, right?
                                                                    14
14
                                                                    15
15
         MR STRAUSS: Object to form
                                                                                So do you have a sense of when may be
   11:10:17
                                                                        11:13:06
16
                                                                     16
                                                                          convenient?
         You may answer the question
                                                                                MR. BAUMANN: Maybe like five or ten
17
         THE WITNESS: Correct
                                                                    17
                                                                     18
                                                                          minutes if that works for you. If it's urgent, we
18
    BY MR BAUMANN:
                                                                     19
19
       Q So you would agree that the directory is
                                                                          can do it now.
                                                                    20
20
    being used to advertise, right?
                                                                                MR. STRAUSS: No, that is perfect. I
   11:10:27
                                                                        11:13:17
21
         MR STRAUSS: Same objection
                                                                    21
                                                                          appreciate that.
22
         You may answer it
                                                                    22
                                                                                MR. BAUMANN: Great.
                                                                    23
                                                                          BY MR. BAUMANN:
23
         THE WITNESS: I don't know
                                                                             Q So Mr. Sessa, do you know whether certain
24
    BY MR BAUMANN:
                                                                    24
25
                                                    11.10.48
                                                                          news websites are accessible only to paying
                                                                                                                               11:13:24
       O Do you know whether businesses pay to
                                                          Page 107
                                                                                                                               Page 109
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1 subscribers? 11:13:28 2 MR. STRAUSS: Objection to form. 2 Q Let's say, Mr. Sessa, that nobody had eve searched your name or picture on Ancestry. 4 THE WITNESS: I don't know. 5 BY MR. BAUMANN: 5 BY MR. BAUMANN: 6 BY MR. BAUMANN: 7 picture weren't used to promote Ancestry's site,	
2 MR. STRAUSS: Objection to form. 3 You may answer it. 4 THE WITNESS: I don't know. 5 BY MR. BAUMANN: 2 Q Let's say, Mr. Sessa, that nobody had every searched your name or picture on Ancestry. 4 You would agree then that your name and picture weren't used to promote Ancestry's site,	
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5 BY MR. BAUMANN: 5 picture weren't used to promote Ancestry's site,	
11 12 24	
11:13:34 11:39:27	
6 Q Let's assume the "New York Times" website 6 right?	
7 is only accessible to paying users. 7 MR. STRAUSS: Objection to form.	
8 If the "New York Times" had an article 8 You may answer, Mr. Sessa.	
9 about president Joe Biden and it was only accessible 9 THE WITNESS: No, I would not agree.	
10 to those who had paid to subscribe to the "New York 10 BY MR. BAUMANN:	
11:13:55	
11 Times" website, in your view would that be using 11 Q Why not?	
12 President Joe Biden's name to promote the "New York 12 A Just because somebody didn't see it didn'	't
13 Times"? 13 mean that they didn't use it.	•
14 MR. STRAUSS: I object to the form of the 14 Q And how did they use it if nobody's ever	
15 question. 15 seen it?	
11:14:10 11:39:53	
16 You may answer it, Mr. Sessa. 16 A Well, they still post my picture without	
17 THE WITNESS: In my opinion that they 17 my without asking me for permission.	
18 people who wanted to read that article would have to 18 Q So I want to focus in on what you are	
people who wanted to read that article would have to 19 pay, so I would have to say I think so. 19 alleging is promotion, which is using the picture	to
	10
20 If you can't if you don't pay, you are 20 gain subscribers to Ancestry's site; is that 11:14:34	
21 not able to be able to read that article. 21 correct?	
22 BY MR. BAUMANN: 22 A Yes.	
Q So in your view, a news record that is 23 Q And if nobody had ever seen your picture	1
24 accessible only behind a pay wall, whoever's name 24 how would that help Ancestry gain any subscrib	
25 appears in that, their names are being used to 11:14:51 25 MR. STRAUSS: Object to form.	11:40:36
Page 110	Page 112
1 promote the newspaper? 1 You may answer it.	
11:14:55	
2 MR. STRAUSS: Object to the form of the 2 THE WITNESS: If somebody hasn't seen	it
3 question. 3 yet doesn't mean that they won't in the future.	
4 You may answer it. 4 BY MR. BAUMANN:	
5 THE WITNESS: Not everybody's name but 5 Q So let's assume that nobody has seen it	
11:15:06	
6 otherwise, yes. 6 and they won't in the future.	
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I don't go on the site, but I know just for them to
                                                                              A I don't know.
                                                                         11:44:17
      put my picture up and without my permission, they're
                                                                       2
                                                                              Q So focussing in on use of your picture to
 3
      using it.
                                                                       3
                                                                           gain new subscribers, what I want to understand is
 4
         Q Right.
                                                                           in your mind, if nobody has ever viewed that
 5
            And I want to focus in on what you are
                                                                       5
                                                                           picture, is Ancestry using it to promote its
    11:41:58
                                                                         11:44:28
     alleging to be use for promotion, which as I
                                                                           website?
                                                                       6
      understand it in your mind is Ancestry's use of the
                                                                       7
                                                                                 MR. STRAUSS: Object to form.
 8
      picture to gain new subscribers; is that right?
                                                                       8
                                                                                 And again, Jack, we are not going to run
 9
         A That is part of it, yes.
                                                                       q
                                                                           through the same questions again. So you can answer
10
         Q And what is the other part of it?
                                                                      10
                                                                           it but then we have to stop running through this.
    11:42:17
                                                                         11:44:42
11
         A Well, I have a personal belief that
                                                                      11
                                                                           You know, asked and answered. I don't like making
12
     they're going to try and get as many people to join
                                                                           speaking objections but . . .
                                                                      12
13
      as possible for other purposes.
                                                                           BY MR. BAUMANN:
14
         Q So I think we have covered now your
                                                                      14
                                                                              Q Go ahead, Mr. Sessa.
     understanding of the way that Ancestry uses your
15
                                                                      15
                                                                              A Would you repeat the question, please.
                                                                         11:44:54
     picture to promote its site is to show the picture
                                                                      16
17
     to get new subscribers to sign up; is that right?
                                                                      17
                                                                                 If Ancestry's never showed your picture to
18
            MR. STRAUSS: I am going to object on
                                                                      18
                                                                           a potential subscriber of the site or to anyone
19
     form.
                                                                           else, for that matter, how in your mind is Ancestry
20
             And Jack, I feel like we have gone through
                                                                     20
                                                                           using your picture to promote its website?
    11:43:01
                                                                         11:45:09
21
                                                                     21
     this line of questioning multiple times now and I
                                                                                 MR. STRAUSS: Same objection.
     haven't objected but I want to put on the record it
                                                                     22
                                                                                 You may answer.
23
      seems like we are retreading quite a few times this
                                                                     23
                                                                                 THE WITNESS: I don't know that nobody has
24
      area.
                                                                     24
                                                                           seen it. I don't go on to the website.
25
                                                                     25
                                                                                 The very fact that my picture is there
                                                                                                                             11:45:21
                                                          Page 114
                                                                                                                                Page 116
      BY MR. BAUMANN:
 1
                                                                          without my permission is -- is fact that they're
    11:43:16
                                                                         11:45:29
 2
         Q Go ahead, Mr. Sessa.
                                                                      2
                                                                          using it to promote without my -- without my say so
 3
             Would you repeat that question.
         Α
                                                                      3
                                                                          BY MR BAUMANN:
 4
         0
             Sure.
                                                                             Q And that includes if nobody's ever seen it
 5
            So I had asked you if it's your
                                                                      5
                                                                          such that they might subscribe to the website?
    11:43:21
                                                                         11:45:53
     understanding that Ancestry uses your picture to
                                                                             A Nobody's ever seen it, I don't know
                                                                      6
      promote its website by showing it to individuals who
                                                                                MR STRAUSS: I'm going to object to the
 8
      Ancestry hopes to become new subscribers and you
                                                                          form of the question
 9
      said that is part of it.
                                                                                And Jack, this is the last time I am going
10
            So what I am trying to understand now is
                                                                         to stop the deposition We can't just go through
    11:43:35
     the whole of it in terms of your understanding of
                                                                      11
                                                                          the same questions over and over
     how Ancestry uses your picture to promote its
                                                                      12
                                                                                MR BAUMANN: I am trying to understand
13
      website.
                                                                          Mr Sessa's understanding and that seems to be, you
                                                                      13
            And the first aspect as I understand it is
14
                                                                          know, evolving a bit as we go through the questions
15
     showing the picture to get somebody to subscribe to
                                                                          So I want to make sure I have a complete
                                                                      15
    11:43:50
                                                                         11:46:19
16
     the site --
                                                                      16
                                                                         understanding of it
17
         A Yes.
                                                                      17
                                                                                My goal here is not to ask the same
18
             -- is that right?
                                                                      18
                                                                          question over again but to get Mr Sessa's complete
19
            And then the other portion that you
                                                                      19
                                                                          understanding so, you know, we can get to a point
20
     discussed was that Ancestry wants to gain as many
                                                                     20
                                                                          once we have got that where I can ask if there is
    11:43:58
21
      subscribers as possible; is that right?
                                                                          anything else, but at this juncture is seems that
22
         A Yes.
                                                                     22
                                                                          there is, you know, a little bit of evolution in his
23
         Q And then is there any other way in your
                                                                     23
                                                                          answer So I am just trying to understand where
24
      view that Ancestry uses your picture to promote its
                                                                     24
25
      website?
                                                    11:44:16
                                                                     25
                                                                                MR STRAUSS: So I am unclear about that
                                                                                                                           11.46.45
                                                          Page 115
                                                                                                                                Page 117
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1	last answer, but I don't think for counsel we should		1	your name or image to promote LinkedIn's website?	
	11:46:47			11:49:41	
2	be speaking on the record about the testimony, but		2	MR STRAUSS: Object to form	
3	what I will say is that I am uncomfortable and it is		3	You may answer	
4	not an appropriate line of questioning to repeat the		4	THE WITNESS: No	
5	same thing.		5	BY MR BAUMANN:	
	11:46:59			11:49:55	
6	So the last time you went through the		6	Q Why not?	
7	question, I said that's the last time but this time		7	A I am the one who put the picture up and	
8	I want you to know I sincerely mean that you can't		8	put my name up there and information so that I could	
9	do this.		9	connect with other people who have similar	
10	So Mr. Sessa, you can answer this question		10	interests	
	11:47:10			11:50:15	
11	one last time.		11	Q But as I understand this button and you	
12	Jack, maybe if you want to take a break,		12	can correct me if I am wrong this is asking new	
13	we can take this offline but this is just not an		13	visitors to LinkedIn whether they want to join	
14	appropriate line of questioning to just recycle		14	LinkedIn's website; is that right?	
15	through.		15	A I am not sure	
10	11:47:23		10	11:50:33	
16	MR. BAUMANN: Yeah, I think I disagree.		16	Q And you chose to post your picture on	
17	I actually forgot what my last question		17	LinkedIn, right?	
18	was at this point. So I can probably ask the		18	A Yes	
19	reporter to read it back, but I can assure you this		19	Q And you chose to post your name on	
20	won't go on for much longer.		20	LinkedIn; is that right?	
20	11:47:33		20	11:50:48	
21	MR. STRAUSS: Sounds good, and I want to		21	A Yes	
22	be respectful of the fact that this is your		22		
23	deposition and I want you to get the testimony or at		23	Q And you knew that would be visible to	
24	least ask the questions that you wish.		24	other people who visited LinkedIn's website?	
25	(The previous question and answer	11:47:44	25	A I imagine so	1:04
23	(The previous question and answer	Page 118	23	Q And looking at this screen now, you knew 11:5	Page 120
		1 450 110			1 450 120
1	was read back by the court reporter		1	that LinkedIn would solicit users to join their	
	11:47:44			11:51:07	
2	as follows:		2	website on the same page as your name and picture	
3	"QUESTION: And that includes		3	appear; is that right?	
4	if nobody's ever seen it such that		4	MR. STRAUSS: Object to the form of the	
5	they might subscribe to the		5	question.	
	11:45:54			11:51:19	
6	website?			11.01.17	
7			6	You may answer it.	
1 '	"ANSWER: Nobody's ever seen		6 7		
8	"ANSWER: Nobody's ever seen it, I don't know.")			You may answer it. THE WITNESS: I suppose. BY MR. BAUMANN:	
	•		7	You may answer it. THE WITNESS: I suppose.	
8	it, I don't know.")		7 8	You may answer it. THE WITNESS: I suppose. BY MR. BAUMANN:	
8 9	it, I don't know.") BY MR. BAUMANN:		7 8 9	You may answer it. THE WITNESS: I suppose. BY MR. BAUMANN: Q I will take down this exhibit.	
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hypothetically, if someone was to put somebody's
                                                                              MR. STRAUSS: Same objection.
                                                                      11:57:09
     name up there without their permission, somebody
                                                                    2
                                                                               You may answer it, Mr. Sessa.
     else on this website could see that and decide to
                                                                    3
                                                                               THE WITNESS: Again, I don't think so.
     use their name in a -- in a way that wouldn't be
                                                                    4
                                                                        BY MR. BAUMANN:
                                                                    5
 5
     appropriate.
                                                                           Q And have you ever provided written consent
    11:53:53
                                                                      11:57:14
            It would baptize them into, let's say, a
                                                                    6
                                                                        to any third parties to use your likeness?
 6
 7
     belief system that wasn't agreeable to them.
                                                                    7
                                                                              MR. STRAUSS: Same objection.
 8
         Q I'm trying to understand when you say
                                                                    8
                                                                               You may answer it, Mr. Sessa.
 9
     "baptize them into a belief system they're not
                                                                    9
                                                                               THE WITNESS: Not that I am aware of.
10
                                                                   10
     agreeable with," what you mean by that.
                                                                       BY MR. BAUMANN:
    11:54:22
                                                                      11:57:30
11
         A What I mean by that is --
                                                                           Q When you first were depicted in the
                                                                   11
                                                                        yearbook back when you were in high school, do you
12
         Q Can you explain.
                                                                   12
13
         A The -- there is a church that has a belief
                                                                   13
                                                                        recall whether you had to sign off on any written
14
     system that you can baptize into that church by
                                                                        consent to appear in the yearbook?
     proxy. They don't even have to know they have been
                                                                   15
                                                                           A I don't remember.
    11:54:47
                                                                       11:57:45
16
     baptized.
                                                                   16
                                                                           Q Have you ever granted any license to any
                                                                   17
17
            As long as they have got the person's
                                                                        person to use your name?
     name, they can baptize them. They don't even have
                                                                   18
                                                                           A I don't believe so.
     to go to that church. They don't even know that
                                                                   19
                                                                            Q Have you ever granted any license to a
20
     they have been baptized.
                                                                        person to use your likeness?
    11:55:03
                                                                       11:58:07
21
            Somebody sees my name and decides they
                                                                  21
                                                                           A Again, I don't think so.
     want to baptize me into that church, they can do so,
                                                                  22
22
                                                                            Q And have you ever granted any license to
23
     and a lot of these -- a lot of these sites use that
                                                                  23
                                                                        any person to use your identity or your persona?
24
                                                                  24
                                                                               MR. STRAUSS: Object to the form of the
     information. They could use that information like
25
                                               11:55:24
                                                                  25
                                                                                                                    11:58:23
     that.
                                                                        question.
                                                        Page 122
                                                                                                                           Page 124
 1
           More, those people that are on
                                                                   1
                                                                            You may answer, Mr Sessa
   11:55:30
                                                                      11:58:23
    Ancestry.com, I don't know what their intent is.
 2
                                                                   2
                                                                            THE WITNESS: I don't believe so
        Q And your name appears in other locations
 3
                                                                   3
                                                                       BY MR BAUMANN:
 4
    like on your LinkedIn profile besides Ancestry.com,
                                                                          Q Have you granted any form of permission or
 5
    right?
                                                                   5
                                                                       authorization to another person to use your name?
   11:55:50
                                                                      11.58.36
 6
        A Correct.
                                                                   6
                                                                            MR STRAUSS: Object to the form of the
        Q So to sort of wrap this up, are there any
                                                                   7
                                                                       question
    other ways that you contend you have been harmed by
                                                                   8
                                                                            You may answer it
     Ancestry's use of your yearbook photograph on its
                                                                            THE WITNESS: Another person? I don't
10
    website?
                                                                       believe so
   11:56:09
                                                                      11.58.47
        A Not that I am aware of but that doesn't
11
                                                                   11
                                                                      BY MR BAUMANN:
    mean there isn't. I just don't know about them yet.
                                                                   12
                                                                          O What about any other -- setting aside
13
        O Have you ever provided written consent to
                                                                   13
                                                                       people, any entity to use your name?
                                                                            MR STRAUSS: Object to form
14
     anyone for use of your yearbook information?
                                                                   14
15
        A Not that I am aware of. I don't think so,
                                                                   15
                                                                            You may answer it
   11:56:40
                                                                      11:58:59
                                                                            THE WITNESS: I don't believe so, no
16
                                                                   16
17
        Q Have you ever provided written consent to
                                                                   17
                                                                       BY MR BAUMANN:
18
     any third parties to use your name?
                                                                   18
                                                                          Q And have you ever granted any form of
19
           MR. STRAUSS: Object to the form of the
                                                                   19
                                                                       permission or authorization to another person to use
20
    question.
                                                                   20
                                                                       your identity?
   11:56:57
                                                                      11:59:15
21
           You may answer it, Mr. Sessa.
                                                                   21
                                                                             For somebody else to use my identity, no
22
           THE WITNESS: I don't believe so.
                                                                   22
                                                                             What about your persona?
23
     BY MR. BAUMANN:
                                                                   23
                                                                          Α
                                                                             No
24
        Q Have you ever provided written consent to
                                                                   24
                                                                          Q Mr Jacob (sic), do you know whether your
     any third parties to use your identity?
                                                    11:57:04
                                                                       attorneys have ever accessed Ancestry's website?
                                                                                                                     11.59.36
                                                        Page 123
                                                                                                                           Page 125
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		_			
1	A I'm sorry, could you repeat that question.	1	BY MR. BAUMANN:		
	11:59:41		12:02:06		
2	Q Yeah, no problem.	2	Q I will take this document down.		
3	Do you know whether your attorneys have	3	So Mr. Sessa, do you have an understanding		
4	ever accessed Ancestry's website?	4	that that case has been asserted as a class action		
5	A I am not sure.	5	lawsuit?		
	11:59:51		12:02:18		
6	Q Is that something you would expect them to	6	A A class action, yes.		
7	do as part of their investigation of this lawsuit?	7	Q And do you understand that you have		
8	A Yes, yes.	8	alleged that you can serve as a representative of		
9	MR. STRAUSS: Mr. Sessa, I just want to	9	that class?		
10	remind you again and my apologies please,	10	A I am sorry. Would you repeat the last		
11	12:00:02	١	12:02:35		
11	don't respond to Mr. Baumann's questions until he is	11	part of that question.		
12	finished asking.	12	Q Sure.		
13	And I realize this is probably a delay on my end, so please, give me an extra second so I can	13	Do you have an understanding that you have		
15	hear the whole question.	14	claimed that you can serve as a representative of		
13	12:00:17	13	that class? 12:02:44		
16	BY MR. BAUMANN:	16	A Yes.		
17	Q And do you recall, Mr. Sessa, we looked at	17	Q And do you have an understanding of what		
18	some images in the complaint and I can pull it	18	it means to serve as a class representative?		
19	back up if you need to that were accessible only	19	A Yes.		
20	to subscribers of Ancestry's website?	20	Q And what is your understanding of what		
- "	12:00:30	= 0	12:03:00		
21	A Yeah, could you pull those back up.	21	that entails?		
22	Q Yeah, definitely.	22	A That I would represent the people who in		
23	I'm going to pull back up here Exhibit 1	23	the State of Nevada who have a part of this class		
24	which is the complaint and I'm going to scroll down	24	action suit against Ancestry.com.		
25	to paragraph 39. 12:00:52	25	Q And is there any reason that you do not	12:03:	:23
	Page 126			Page	128
1	A Okay.	,	1.1		
1	12:00:56	1	believe you could serve in that role? 12:03:25		
2	Q Do you see that?	2	A At this time, no		
3	And here we have a sentence in your	3	MR BAUMANN: If you give me like three		
4	complaint that says,	4	minutes, I think we are probably done here		
5	"These pages are accessible both to	5	MR STRAUSS: Sounds good		
	12:01:03		12:03:44		
6	paying subscribers and to users of	6	MR BAUMANN: We will come back on maybe		
7	Ancestry's promotional 14-day 'free				
8		7	like 12:06		
	trial.'"	7 8	like 12:06 THE VIDEOGRAPHER: Going off the record		
9	trial.'" Do you see that?				
10	Do you see that? A I do.	8	THE VIDEOGRAPHER: Going off the record		
10	Do you see that? A I do. 12:01:14	8	THE VIDEOGRAPHER: Going off the record The time is 12:03 p m		
10	Do you see that? A I do. 12:01:14 Q And did you have an understanding that to	8 9 10	THE VIDEOGRAPHER: Going off the record The time is 12:03 p m (Off the record) 12:03:53 THE VIDEOGRAPHER: Back on the record		
10 11 12	Do you see that? A I do. 12:01:14 Q And did you have an understanding that to access those pictures, one would need to subscribe	8 9 10 11 12	THE VIDEOGRAPHER: Going off the record The time is 12:03 p m (Off the record) 12:03:53 THE VIDEOGRAPHER: Back on the record The time is 12:07 p m		
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Share but I need to do now a screen share with the
                                                                        Q And would you have any trouble
    12:08:16
                                                                    12:10:43
     Exhibit Share.
                                                                  2
                                                                     identifying -- or do you have any trouble
 3
            MR. BAUMANN: So I could share my screen,
                                                                     identifying that that is a photo of you?
                                                                  3
 4
     whatever is easiest for you, Sam.
                                                                        A No
 5
           MR. STRAUSS: So Jack, that would be
                                                                  5
                                                                          MR BAUMANN: Jack, can we go to the next
   12:08:25
                                                                    12:10:52
     incredibly helpful. I will tell you it would be
     helpful if you could open Exhibit Number 1 and turn
                                                                  7
                                                                     BY MR BAUMANN:
 8
     to page 9.
                                                                        Q And who -- Mr Sessa, can you tell me what
 9
            MR. BAUMANN: Of course. Give me one
                                                                     is depicted on page number 18
10
     second.
                                                                        A That is -- I'm sorry Go ahead
   12:08:39
                                                                    12:11:01
            All right. I think I did the wrong
11
                                                                 11
12
     document. Let me share screen there.
                                                                 12
                                                                          Can you tell who or what is depicted in
13
            Now, can you see it?
                                                                 13
                                                                     the image on page number 18
14
            MR. STRAUSS: I can see it, yes.
                                                                        A I believe that is my senior yearbook
15
                                                                 15
                                                                    picture
    12:08:57
                                                                    12:11:12
16
                  EXAMINATION
                                                                 16
                                                                        Q And do you have trouble identifying that
     BY MR. STRAUSS:
17
                                                                 17
                                                                     as your senior yearbook photo?
18
        Q And Mr. Sessa, can you see page number 9?
                                                                 18
                                                                        A No
19
        A I see pictures of my brother.
                                                                 19
                                                                          MR STRAUSS: I have no further questions
20
        Q You know what, I am wrong. My apologies.
                                                                20
                                                                          MR BAUMANN: Great And no follow-ups
   12:09:09
                                                                    12:11:29
21
            Let me tell Jack the correct page that I
                                                                21
                                                                    from me
22
     want to look at.
                                                                 22
                                                                          THE VIDEOGRAPHER: This concludes today's
23
            And you can -- my apologies, Jack,
                                                                 23
                                                                     video recorded deposition of Mark Sessa
24
     instead, can you guide us to page number 16.
                                                                 24
                                                                          We are off the record at 12:11 p m
25
                                               12:09:27
        A Yes.
                                                                25
                                                                          The number of media used was seven and
                                                                                                                  12:11:38
                                                      Page 130
                                                                                                                       Page 132
 1
        Q Mr. Sessa, you can see page number 16?
                                                                       will be retained by Veritext.
                                                                  1
    12:09:32
                                                                     12:11:41
 2
        A I can.
                                                                  2
                                                                              Thank you.
 3
        Q And can you tell me how many photographs
                                                                  3
                                                                              (The deposition was concluded at
 4
     you see on page number 16?
                                                                  4
                                                                              12:11 p m.)
 5
        A Four.
                                                                  5
   12:09:48
        Q And if we were to count the first
                                                                  6
 6
     photograph on the page as number one and then the
 7
                                                                  7
     second as number two and the third as number three
                                                                  8
     and so on, can you tell me who is depicted in
                                                                  9
10
     photograph number two and number three.
                                                                 10
    12:10:03
                                                                 11
11
        A Two and three are me.
                                                                 12
12
        Q And I know as contemplated in the
     complaint and as you discussed with Mr. Baumann
                                                                 13
     earlier that Plaintiff's counsel had blurred those,
                                                                 14
15
     but if those images were not blurred, would you have
                                                                 15
    12:10:20
                                                                 16
     any struggle identifying who is depicted in these
                                                                 17
17
     pictures?
                                                                 18
18
        A Not at all.
19
                                                                 19
            MR. STRAUSS: And Jack, if you could go to
20
     page 17, and keep scrolling, if you will, to the
                                                                 20
    12:10:34
                                                                 21
21
     second half of the page.
                                                                 22
22
     BY MR. STRAUSS:
                                                                 23
23
        Q And Mr. Sessa, do you know who or what is
                                                                 24
24
     depicted in the image that is on the screen?
                                                                 25
25
        A That picture is of me.
                                                     12:10:42
                                                      Page 131
                                                                                                                       Page 133
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1 SAMUEL STRAUSS, ATTORNEY AT LAW 2 Sam@TurkeStrauss.com 3 OCTOBER 14, 2022 4 RE: SESSA V. ANCESTRY.COM 5 I, MARK SESSA, do hereby declare that I 6 have read the foregoing transcript; that I have made 7 any corrections as appear noted, in ink, initialed 8 by me, or attached hereto; that my testimony as 9 contained herein, as corrected, is true and correct. 10 I declare under the penalties of perjury 11 under the laws of the State of California that the 12 foregoing is true and correct. 13 This declaration is executed this	: d
3 OCTOBER 14, 2022 4 RE: SESSA V. ANCESTRY.COM 5 OCTOBER 11, 2022, MARK SESSA, JOB NO. 5468893 6 have read the foregoing transcript; that I have made 7 any corrections as appear noted, in ink, initialed 8 by me, or attached hereto; that my testimony as 9 contained herein, as corrected, is true and correct. 10 I declare under the penalties of perjury 11 under the laws of the State of California that the 12 foregoing is true and correct. 13 This declaration is executed this	d
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10 I declare under the penalties of perjury 11 under the laws of the State of California that the 12 foregoing is true and correct. 13 This declaration is executed this	: d
11 under the laws of the State of California that the 12 foregoing is true and correct. 13 This declaration is executed this 14 day of	d
12 foregoing is true and correct. 13 This declaration is executed this	d
13 Transcript - The witness should review the transcript and 14 day of	d V
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15 below, notating the page and line number of the correction 16 The witness should then sign and date the errata and penalt 17 of perjury pages and return the completed pages to all 18 appearing counsel within the period of time determined at 19 the deposition or provided by the Code of Civil Procedure. 20 MARK SESSA 20 Waiving the CA Code of Civil Procedure per Stipulation 21 Counsel - Original transcript to be released for signature	
16 The witness should then sign and date the errata and penals 18 17 of perjury pages and return the completed pages to all 18 appearing counsel within the period of time determined at 19 the deposition or provided by the Code of Civil Procedure. 20 MARK SESSA 20 Waiving the CA Code of Civil Procedure per Stipulation 21 Counsel - Original transcript to be released for signature	ý d
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21 Counsel - Original transcript to be released for signature	of
22 as determined at the deposition.	
23 Signature Waived – Reading & Signature was waived at the	ne
24 time of the deposition.	
25	
Page 134 Pa	e 136
1 STATE OF 1 _X_ Federal R&S Requested (FRCP 30(e)(1)(B)) – Locked	PDF
Ss. 2 Transcript - The witness should review the transcript and	
2 COUNTY OF	ı
4 below, notating the page and line number of the correction	.
4 I, DARYL BAUCUM, a Certified Shorthand 5 The witness should then sign and date the errata and penals	,
5 Reporter of the State of California, do hereby 6 of perjury pages and return the completed pages to all	
6 certify;	
7 That the foregoing proceedings were taken 8 the denosition or provided by the Federal Pulses	
8 before the at the time and place herein set form,	ot
y at which time the writess hamed in the foregoing	
10 proceeding was placed under oath; that a record 11 of the proceedings was made by me using machine 10 requested before the completion of the deposition. 11	
12 shorthand which was thereafter transcribed under my 12	
13 direction; and that the foregoing pages contain a 13	
14 6 11 4 1 6 11 11	
15 and destine made the best of marchiller debiller	
16 I further cartify that I am neither	
17 financially interested in the outcome nor a relative	
18 or employee of any attorney or any party to this	
19 action.	
20 IN WITNESS WHEREOF, I have subscribed my 19	
21 name this 13th day of October 2022.	
22	
23	
24	
DARYL BAUCUM, CSR No. 10356 24	
25	- 1
Page 135 Pa	

Case 2:20-cv-02292-GMN-BNW Document 103-18 Filed 12/06/22 Page 37 of 66

1	SESSA V.	ANCEST	RY.COM	
2	MARK SE	SSA (#54	68893)	
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۷3				D 120
				Page 138
				rage 138
				Page 138
				rage 138

[& - 865]

&	130 6:7	27 6:13	48 7:8
& 4:6 7:10,12	138 1:25	2700 54:13	5
136:23 137:9	13th 135:21	2796 54:7,18	5 7:15 70:9,10,21
0	14 77:20 86:24	55:3	72:13 76:6,9
	127:7 136:3	29 54:12,12	77:13 82:17
000003 81:22 02292 1:4 2:4	140 55:7,9 56:8	2:20 1:4 2:4 8:23	50 1:11 2:11
	56:11	3	500 4:20
8:23	16 130:24 131:1	3 7:10 51:19	51 7:10
1	131:4	52:11 53:11	53703 3:10
1 1:11,18,25 2:11	17 131:20	63:3	5468893 136:5
7:5 19:21 20:12	18 132:9,13	30 137:1	138:2
21:4 54:6,18	19 7:5	34 96:14	5468893-1 1:25
55:6,9 56:8	1900-2016 7:15	347.645.0464	555 4:19
57:17 59:15,21	56:18,25 57:25	3:21	597.770 7:6
65:6 68:6 74:10	58:23 63:19	39 65:13,20,21	597.770. 21:6
80:18 85:13	1972 32:4 1990-1999 90:6	66:7,24 67:9,16	598.0903 7:6
92:3 95:25		71:2 74:12,20	6
126:23 129:25	2	76:10,14 77:12	6 7:17 81:10,11
130:7 137:1	2 6:13 7:8 48:1	77:15 78:1,20,25	81:21
10 6:6	48:15,16 49:2	79:22,23 80:5,13	608.237.1775
100 7:20	20 16:6 54:7,18	86:14 87:4 88:5	3:11
1000 4:10	55:6,10 57:17	88:7,13,14 89:2	61 7:12
102 3:19	65:22,22	89:14,20 126:25	613 3:8
10356 1:23 2:22	201 3:9	127:18	650.801.5000
135:24	2020 22:15 24:25	4	4:22
10:17 81:4	2022 1:17 2:21	4 7:12 54:16	7
10:32 81:7 11 1:17 2:21 8:1	8:1,6 134:14	61:17,19 62:2	•
8:6 136:5	135:21 136:3,5	63:6 68:6,6,11	7 7:20 100:5,15
11201 3:20	2025.520 136:9	68:11 90:25	70 7:15 72 51:6
11:15 111:11	136:12	91:6	72 51:6 7753 10:7
11:15 111:11 11:38 111:14	21 65:23 92:9	42 60:23	7796 57:17
11:38 111:14 12:03 129:9	213.443.3000	43 85:21 87:3,5	
12:06 129:7	4:12	87:11,22 88:1,3	8
12:00 129:7 12:07 129:12	22 92:10 95:24	88:20,22,25	8 119:11,25
12:07 129.12 12:11 2:20	96:4,10	89:12 90:1	81 7:17
132:24 133:4	243 49:3	44 92:8,12 94:18	865 4:9
132.27 133.7		94:22 95:9	

[89131 - ancestry.com]

00121 100	106 5 110 01 01	107.14	5401500
89131 10:8	106:7 110:21,21	107:14	74:21 78:2
8:32 2:19 8:2,5	absolutely 52:23	advertising	81:22 86:6
8:49 20:19	80:23	103:22	92:24 93:15,16
8:52 20:22	access 77:25	advice 26:25	104:23 105:3,8
9	78:19,24 79:21	27:1,16,19,23	105:11,14
9 130:8,18	86:5,9 87:6	advise 27:9	108:12 111:19
90017 4:11	89:13,22 109:2,5	advising 26:9	111:23 112:3,24
94065 4:21	127:12	affiliations 9:10	114:15 115:6,8
9:02 29:5	accessed 125:25	afraid 24:3	115:12,20,24
9:10 29:8	126:4	ago 51:9 76:4	116:5,19 127:13
9:38 53:5	accessible 77:18	agree 8:15 74:2	ancestry's 22:10
9:40 53:8	86:22 88:15	75:19,25 77:3	22:17 23:5,10,13
a	89:12 109:25	84:11,13 87:24	25:3,12,22 28:15
	110:7,9,24	97:15 107:19	29:15 30:2,12
a.m. 2:19 8:2,5	126:19 127:5	112:4,9 113:7	31:5,17 53:15,24
20:19,22 29:5,8	accurate 135:14	agreeable 122:7	60:7,14 62:23
53:5,8 81:4,7	action 7:5 9:5	122:10	63:4 66:20,25
111:11,14	11:10,13,16,18	agreed 97:21	67:20 68:3,13,17
ability 135:15	11:23 12:6,7	agreement 97:10	69:12 77:20
able 15:3 20:7	19:13 21:5	ahead 14:1 21:1	78:24 79:21
21:13 24:5 39:5	29:25 95:25	84:5 115:2	80:9,15 86:24
48:6,23,24 52:1	128:4,6,24	116:14 132:10	89:23 90:17
52:7 57:13	135:19	air 7:18	95:15,18,21
59:20 60:25	activity 20:10	al 8:20,21	97:16,22 104:22
62:3,15 63:23	actual 24:14	aligned 13:6	105:2,23,24
64:23 65:2,10,11	ad 33:11	allegation 60:17	108:14 111:19
67:3 69:17,23	add 51:18 61:14	76:13 77:25	112:5,20 113:8
70:22 71:5,8,16	70:13 100:4	93:8 96:23	113:18,23 114:7
72:14,16,20	adding 47:25	allegations 22:2	116:17 121:11
73:22 74:6,15,18	addition 38:12	60:6,12	121:18 123:9
76:10 81:23	95:2	alleged 128:8	125:25 126:4,20
82:21 84:15,20	address 10:6	alleging 111:21	127:7
85:1,3,15,18,23	ads 33:15	112:19 114:6	ancestry.com
87:12,15,16 88:8	advertise 107:20	allow 55:19	1:8,9,10 2:8,9,10
88:21 90:4 91:4	advertisement	amount 86:11	4:3,4,4 8:20
92:5,6,19 96:1	104:7	ancestry 9:14	18:2 19:15 21:8
98:2 100:9,16	advertisements	30:25 31:4,8,17	29:22 65:18
102:11 105:22	102:25 103:4	49:3 68:21 69:6	66:13 67:12

[ancestry.com - authorize]

86:20 96:6,19,25	121:6 123:21	30:1 136:18	asks 79:8
97:15 113:16	124:2,8 125:1,8	137:7	aspect 113:21
123:2,4 136:4	125:15 127:22	appears 71:9,15	115:14
138:1	answered	76:9 78:7 84:7	asserted 128:4
ancestry.com.	116:11	94:13 110:25	associated 56:11
97:11 112:1	answering 46:11	119:15 123:3	assume 14:6
128:24	anthony 1:4 2:4	applied 70:5,6	46:24 48:11
angeles 4:11	8:19 17:20,21,24	appreciate	79:16 110:6
angelo 10:7	anticipate 13:16	109:21	113:5
answer 6:11	anticipated 13:4	appropriate	assure 118:19
11:24 13:21,25	anybody 17:15	118:4,14 122:5	attached 19:23
14:1,14 22:24	17:22 39:13	approval 19:16	48:3 51:21
25:6,17,24 26:9	43:1,5,9 78:10	approximately	61:21 70:12
27:9 30:6 31:12	78:12,17	10:12 15:15	79:13 81:13
31:20 33:6	anybody's 69:24	approximation	100:7 134:8
34:14,19 35:18	anyone's 94:23	16:3	attend 32:2,5
36:3,25 37:9,20	apologies 80:3	archive 40:18	attended 32:6
39:9 40:10,22	95:14 126:10	archives 41:4	34:2 58:15
41:11 43:15	130:20,23	area 114:24	attention 92:15
44:8 45:17 46:1	appear 41:4 45:4	arrow 63:17	129:24
46:24 47:4,21	45:11 64:21,24	article 7:9 110:8	attorney 3:6,17
55:19 58:18	68:17 70:1 71:1	110:18,21	4:7,17 9:11 26:8
68:24 69:8	72:18 77:11	articles 108:24	26:23 27:8
71:25 72:4	82:7,9 84:7	109:2,5	135:18 136:1
76:19 78:6,14	106:12 108:1,4	aside 16:20 17:8	attorneys 15:10
79:3,13 84:19	121:3 124:14	17:21 18:9	15:13 16:8,19,21
85:8 90:21 94:5	134:7	29:24 80:7,12	17:7,8,16 18:4,8
97:4,18 99:25	appearance 9:7	125:12	22:5 23:19,25
101:21 102:14	93:14	asked 11:22 18:1	24:21 26:12,24
103:20 104:5,18	appearances 3:1	18:20 28:11	27:3,15,17,19
105:17 106:2	4:1 5:1 9:9	31:4 44:18	125:25 126:3
107:2,9,16,22	appeared 34:7	53:12 80:4	127:17
108:9 109:10	35:24 37:16	99:23 115:5	attract 113:18
110:3,16 111:4	44:13,21 59:9	116:11	audio 8:14 84:23
112:8 113:1,10	84:3 106:23	asking 10:4 13:1	authorization
116:9,22 117:23	107:5	28:6 29:14	125:5,19
118:1,10,25	appearing 2:18	72:12,14 112:17	authorize 25:11
119:7 120:3	3:7,18 4:8,18	120:12 126:12	25:20 103:13

[authorized - bit]

4hid 26.2	h4! 100.6 0	(1.1(.22.(0.2.10	1. 1. f 02.22
authorized 26:2	baptize 122:6,9	61:16,23 69:2,10	belief 92:23
27:3	122:14,18,22	70:13,18 71:21	114:11 121:23
available 41:25	baptized 122:16	72:9,11 76:23	122:7,9,13
42:7 78:8 89:22	122:20	78:11 79:8,11,15	believe 10:14,24
95:20,21 109:6	bar 102:7	80:23 81:2,8,14	11:20 22:15
aware 39:12	barely 21:11	81:18 84:22	28:5 35:1 49:15
42:2 69:11 95:6	49:23 69:19	85:10 90:23	54:2 62:24
95:20 109:4	base 86:11	94:7 97:6,20	98:13,23 101:6
123:11,15 124:9	based 25:21 27:8	99:14,19 100:8	113:16 123:22
awesome 111:8	28:5 46:24	100:11,12	124:18 125:2,10
b	68:21 69:6 85:2	101:23 102:17	125:16 129:1
b 137:1	96:23 111:19	103:23 104:11	132:14
back 10:15	basis 93:7,15	104:20 105:20	ben 3:22 9:17,18
18:17 19:1	baucum 1:23	106:4 107:4,12	15:14
20:21 29:7	2:21 9:2 135:4	107:18,24	benjamin 3:16
31:23 33:24	135:24	108:11 109:17	3:17
34:20,21 49:12	baumann 4:7	109:22,23 110:5	benosbornlaw
51:3 52:24 53:7	6:6 9:12,13 10:2	110:22 111:7,15	3:22
56:13 59:16	10:4 12:21 13:4	112:10 113:4,14	bergen 3:19
65:6 67:8 71:1	13:8 19:18,24	115:1 116:13	best 102:4
72:8,19,23 74:10	20:17,23 22:19	117:3,12 118:16	135:15
77:15 81:6	22:21 23:1,3	119:9 120:5	better 21:13
82:12 83:9	24:16,17 25:9,19	121:8 123:23	57:12,21 62:15
86:14 87:3,22	26:1,14,17 27:11	124:4,10 125:3	62:18 64:18
88:3,19 89:20,25	27:24 28:12,13	125:11,17	87:15 91:4
92:2 95:24	28:19 29:2,9	126:16 128:1	beyond 46:15
99:20 111:13,16	30:9 31:13,15,22	129:3,6,13 130:3	biden 110:9
111:17 118:19	33:10 34:16,23	130:9 131:13	biden's 110:12
119:1,10 124:12	35:21 36:5 37:2	132:5,7,20	bit 11:21 12:22
,	37:11,22 39:11	baumann's	20:24 22:7
126:19,21,23	40:12,24 41:13	26:10 46:10	45:20 52:12
129:6,11	42:16 43:7,17	126:11	54:17 57:20
background	44:10 45:8,19	bear 19:19	59:22 60:22
18:13	46:3,14 47:6,23	bedroom 42:19	62:6 67:2 68:9
band 7:9 35:9,9	48:4,11,19 51:16	beginning 2:19	77:1 83:2 84:24
49:6,7 51:6 82:5	51:22 52:1,4	9:10 79:11	87:14,15 117:14
84:14	53:2,9 55:23,24	behalf 1:4 2:4	117:22
	56:3 58:20	9:17 22:5	-

[black - complete]

black 71:15	businesses 33:12	138:19	119:22
72:13 76:3,7	33:15 107:14,25	charge 107:11	client 26:8,23
blue 7:18 50:7	108:6	108:15	27:8
56:18 57:25	butting 13:2	charged 108:15	clumsy 31:14
58:22,23 61:2	button 119:19	check 48:5	code 136:9,12,19
63:14 82:4	120:11	checked 40:13	136:20
blurred 62:9	c	40:25 41:14,21	collection 54:1
131:14,15	ca 136:9,12,20	104:15	62:23
blurring 70:5	california 4:11	chose 102:22	come 22:16 23:8
book 22:17	4:21 134:11,15	120:16,19	129:6
books 36:1 38:21	135:5	christina 9:14	comes 105:12
106:19	call 28:20 129:24	christinahenri	comfortable
bother 103:3,24	calling 26:7	4:23	18:23
bottom 54:15	caming 20.7	church 122:13	committee 32:20
75:19 76:22	17:2	122:14,19,22	32:22
92:9	captured 68:3	city 61:8	communicated
bought 43:1,5	80:4,7,12	civil 136:19,20	28:7
box 63:14	case 8:22 17:16	claim 11:4,5,8	communication
boxing 58:24	17:19,22,25	27:6	26:8,23 27:25
break 14:11,12	18:10 21:7,18	claimed 128:14	28:1,3
14:15 17:4	23:17,20 24:1,22	claims 19:13	communications
80:22 81:1	28:3,8 59:13,25	25:11,20 26:5	26:11,24
109:13 111:7	65:8 74:11	27:3 68:21 69:6	company 1:10
118:12 129:19	128:4	111:18 127:19	2:10
breaking 23:21	catch 11:23	clarification	compiling 32:18
28:17	12:14 84:24	26:19	complaint 7:5
briefly 18:12	99:22	class 7:5 11:12	21:5,18,24 22:2
broken 71:20	caught 11:1 38:4	11:16 12:7 21:5	22:4 27:4 59:12
brooklyn 3:20	ccp 136:9,12	128:4,6,9,15,18	59:25 60:3 65:8
brother 17:20,21	center 56:23	128:23	71:2 74:11 75:4
17:24 18:10	119:14	classes 32:18	76:14 85:12,22
22:13,16 23:4,9	certain 96:24	classmates 36:15	88:22,25 89:2
23:13 25:2	109:24	36:21 37:4,15	92:2 94:19,23
96:11 130:19	certified 135:4	39:2,17 40:4,16	95:9,25 96:4,14
brown 50:3	certify 135:6,16	41:6 65:3	126:18,24 127:4
bubble 63:7	change 60:21	clear 44:18 77:9	131:13
business 19:17	138:4,7,10,13,16	click 20:2,11 89:8 90:10	complete 13:20 15:3 117:15,18
		07.0 70.10	13.3 11/.13,10

[completed - december]

completed 13:21	context 27:16	112:21 119:12	covered 91:22
136:7,17 137:6	continue 8:14	120:12 123:6	114:14
completely	continued 4:1	130:21 134:9,12	cpap 10:23
12:21 30:6	5:1	corrected 134:9	crazy 24:15
completion	continues 24:19	corrections	create 45:11
137:10	92:24 93:16	134:7 136:14,15	created 74:22
concluded 133:3	contradicts	137:3,4	cristina 4:17
concludes	121:23	corresponding	crr 1:23 2:22
132:22	convenient	61:6	csr 1:23 2:22
conditions 97:16	109:16	cost 33:3,8	135:24
97:22	conversation	counsel 3:1 4:1	currently 12:4
conducted 8:8	18:9	5:1 8:18 9:8	18:16 19:2,9
8:23 67:22	conversations	13:24,25 21:2	74:22
confirm 22:1	13:16	23:16 25:10	cut 78:13 84:23
connect 103:11	copies 32:24	26:2,4,20 27:5	89:5
104:8,9 119:16	34:6 35:23	28:2,7 29:24	cutting 16:25
120:9	36:11 37:12,16	53:1 70:5 75:5	17:3
connections 8:10	38:5,8 39:5,18	118:1 131:14	cv 1:4 2:4 8:23
connectivity	40:1,5,6 41:7,18	136:18,21 137:7	cymbals 49:18
72:3	41:25 42:4,17	count 131:6	d
consent 123:13	copy 39:13	county 135:2	d 6:1
123:17,24 124:5	corporation 1:8	couple 35:20	daryl 1:23 2:21
124:14	1:9 2:8,9	98:9 129:18,20	9:2 135:4,24
contact 136:9	correct 11:7	129:21	database 66:20
contacted 18:1,4	13:10 20:5 32:7	course 26:20	66:25 67:20
24:23,24	40:15 41:2	52:23 59:19	date 136:16
contain 94:19,23	45:23 50:8	69:3 130:9	137:5 138:24
102:25 135:13	58:12 60:17	court 1:1 2:1	dates 16:2
contained 35:6	63:5 67:13	8:22 9:2,20 10:8	day 25:7 77:20
103:3 134:9	71:12 74:3,4,7	13:18 14:20	78:9,18 80:1
contains 107:14	75:12,21,22	19:22 21:8	86:24 87:4
contemplated	77:13,14 79:18	26:14 48:2 51:20 61:20	88:16 89:16
131:12 contend 121:10	84:12 88:10,16		127:7,13 134:14
121:17 123:8	88:17 90:7 92:13 96:12	70:11 81:12 100:6 119:1	135:21
content 26:11	101:9,11,15,16	cover 27:21	deal 24:19
28:1	101:9,11,13,16		december 16:6
20.1	101:18 102:23	32:12 33:3,8	22:15 24:25

[decide - errata]

decides 122:21 136:19,22,24 20:1,7 21:4,15 71 declaration 137:8,10 21:20 22:8 49:1 82 134:1,13 depositions 49:2,5 51:17,17 91 declare 134:5,10 13:15 16:11,12 52:7,10,19 53:11 13 declined 18:21 description 7:4 53:13,19 54:6,16 earling defendants 1:12 136:18,22 137:7 62:1,8,18 64:5 edit	ier 22:7 60:2 :5 73:21 :17 86:13 :23 119:11 1:14 iest 10:16 est 130:4 ing 75:6 cational
declaration 137:8,10 21:20 22:8 49:1 82 134:1,13 depositions 49:2,5 51:17,17 91 declare 134:5,10 13:15 16:11,12 52:7,10,19 53:11 13 declined 18:21 description 7:4 53:13,19 54:6,16 earls 18:22 determined 57:6 59:13,20 easie defendants 1:12 136:18,22 137:7 62:1,8,18 64:5 edit	:17 86:13 :23 119:11 1:14 iest 10:16 est 130:4 ing 75:6
134:1,13 depositions 49:2,5 51:17,17 91 declare 134:5,10 13:15 16:11,12 52:7,10,19 53:11 13 declined 18:21 description 7:4 53:13,19 54:6,16 earl 18:22 determined 57:6 59:13,20 easie defendants 1:12 136:18,22 137:7 62:1,8,18 64:5 edit	1:14 iest 10:16 est 130:4 ing 75:6
declare 134:5,10 13:15 16:11,12 52:7,10,19 53:11 13 declined 18:21 description 7:4 53:13,19 54:6,16 earl 18:22 determined 57:6 59:13,20 easie defendants 1:12 136:18,22 137:7 62:1,8,18 64:5 edit	iest 10:16 est 130:4 ing 75:6
18:22 determined 57:6 59:13,20 easie defendants 1:12 136:18,22 137:7 62:1,8,18 64:5 edit	est 130:4 ing 75:6
defendants 1:12 136:18,22 137:7 62:1,8,18 64:5 edit	ing 75:6
	O
2.12.4.3.8.19 dialogue 72.7 64.11.65.5.7 adu	cational
2.12 7.3 0.17 dialogue /2./ 07.11 03.3,/ cut	
9:14 difference 87:8 70:23,25 81:10 18	:13
definitely 126:22 different 10:13 81:20,21,23 82:1 eith	er 78:2 104:6
delaware 1:9,10 43:8 45:21 77:1 85:11,18 90:25 10	8:5 127:13
2:9,10 87:20,25 89:1,14 91:19,21 95:12 elem	nentary
delay 12:23 89:18 99:1 96:1 100:3,9,14 24	:12
126:13 difficulty 29:12 100:16,18 128:2 elev	en 32:13
	t 26:22
delivered 27:14 direction 135:13 documents 16:8 elici	ting 27:22
8 , , , , , , , , , , , , , , , , , , ,	il 92:25
1 / / / 8	nuel 4:6
	13,15
	loyee 135:18
	oled 105:11
1 8	ed 36:18
	1:13
	age 23:19
	chment 7:7
13:11 23:9 drive 4:19 enta	
1	re 16:14 28:6
,	:11 71:24
	tled 21:4
	ty 125:13
	y 58:8,21
24:15 26:20 69:21 e 6:1 93:11,14,17 59	
46:12 48:1 district 1:1,2 2:1 93:22,25 94:9.10 equi	fax 10:25
94.13.10.22 93.6	:5 12:6,13,17
	ta 136:14,16
81:11 100:5 117:10 118:23 divorce 10:19 11:3 138:3,3,3 13	7:3,5

[especially - form]

especially 12:22	exhibits 7:1 20:4	fifteen 15:17	fix 28:21
estimate 15:19	48:6,7	19:8 81:1	focus 112:18
et 7:6,6 8:20,21	exist 22:10	figueroa 4:9	114:5
everybody's	existence 25:21	figure 85:3	focusing 11:8
111:5	expect 126:6	129:23	focussing 116:2
evolution 117:22	expedite 60:22	file 25:20 27:4	folder 20:1,10,11
evolving 117:14	expenses 30:11	93:21	48:6,14 51:18
examination 6:5	30:17	filed 8:21 21:24	52:2 61:15,17
10:1 130:16	experiencing	22:5 31:3,16	70:14 81:15
examined 9:25	72:3	files 48:9	100:4
example 40:18	explain 122:12	filing 31:8	folders 48:9
121:25	extent 26:7	fill 7:18	folks 35:23
excuse 82:8	27:14	financially 9:5	38:23 39:4
executed 134:13	extra 126:14	135:17	follow 66:17
exhibit 7:5,8,10	extremely 62:9	find 28:14 102:1	67:16 87:11
7:12,15,17,20	${f f}$	finding 30:11	132:20
19:20,21 20:1,1	face 69:24 72:21	102:6	follows 9:25
20:2,12,25 21:4	74:3,23 75:7,14	fine 21:2 42:14	119:2 136:8
47:23,25 48:1,14	75:20,25 76:11	finish 12:21 30:6	foregoing 134:6
48:15,16 49:2,11	76:15 77:4,9	71:22	134:12 135:7,9
51:18,19 52:2,11	84:12	finished 22:20	135:13
53:11 59:11,15	facebook 98:8	46:11 78:14	forgot 118:17
59:21 61:14,15	98:16,19,22,24	126:12	form 22:22 25:4
61:17,17,19 62:2	99:2	firm 8:25	25:15 31:10
63:3,6 65:6 70:8	faces 73:18	first 9:24 16:5	33:4 34:12
70:9,10,21 72:13	fact 28:8 84:8	22:9,11 24:8,24	35:16 36:23
74:10 76:6,9	116:25 117:1	28:10 29:14	37:7,18 39:7
77:13 79:22	118:22	35:20 38:17	40:8,20 41:9
80:18 81:10,11	factual 22:1	56:24 58:8	43:3,13 44:6
81:21 82:17	fair 14:8	65:14 66:9,9	45:6,15,24 46:7
85:13 90:25	family 39:23,25	75:23 76:10	47:2,19 58:17
91:6 92:3 95:25	far 69:18 76:22	85:25 86:1	68:22 76:17
100:4,5,15	83:22 84:9	100:4 115:14	78:4 79:1,9
119:11,25 121:9	federal 137:1,8,9	124:11 131:6	84:17 85:6
126:23 129:23	feel 81:1 114:20	fit 62:13	90:20 94:3 97:2
129:25,25 130:2	fellow 50:3	five 15:21 28:20	97:17 101:19
130:7	83:11,13 104:9	28:24 109:17	102:13 103:18
	222,22.20.00		104:16 105:15

[form - half]

105:25 106:25	full 15:3 129:21	88:19 96:13	grades 32:11
107:15 108:8	135:14	100:1 102:5,10	graduated 18:14
109:8 110:2,14	funnily 44:18	105:6 111:9	32:4
111:2 112:7,25	funny 13:15	114:1 115:2	grandchild
113:9 114:19	further 132:19	116:14,24	39:15
116:7 117:8	135:16	117:10,14	grandson 10:21
120:2 121:4	furthest 10:15	118:20 122:19	33:21
123:19 124:24	future 113:3,6	131:19 132:5,10	grant 5:5 8:25
125:4,6,14,18	g	goal 117:17	granted 124:16
127:20	gain 19:17	goes 18:24 50:25	124:19,22 125:4
forth 135:8	112:20,24 114:8	51:13 65:23	125:18
forty 15:21	115:20 116:3	75:11 86:21	great 59:1 61:24
found 23:13 25:2	gary 83:4,12,19	92:9 93:21	67:6 70:19
29:14,16,18	general 27:13	94:15 97:7	100:11 109:22
four 10:14 32:8	gentleman 49:17	going 8:5 12:20	132:20
67:7 68:14,20	50:6	13:5,17 20:18,25	ground 13:13
69:5,13 88:9	getting 27:18	21:3,23 27:7,9	95:13
90:13 131:5	ghormley 83:5	28:20 29:2	group 69:19
fourteen 78:9,18	83:15,20	42:13 46:9	71:5,10,15 75:19
80:1 87:4 88:16	give 14:20 15:3	47:24 48:20	75:21,23 76:3
89:16 127:13	16:3 18:6 34:10	51:16 53:4	77:3,10 94:11
fourth 69:15,18	106:8 126:14	55:19 56:13	guardianship
70:6	129:3 130:9	62:1 65:5,6,8	10:21 11:4
frep 137:1	given 40:6	69:15 70:8,20	guess 46:2 54:12
free 77:20 78:2,9	giving 48:17	74:9,10 77:16	55:1 72:3
78:18 80:1,8	glasses 52:22	81:3 84:6 85:11	104:10
86:24 87:4	glitch 71:24	87:3 88:19 92:3	guessing 54:14
88:16 89:16	99:15	111:10 114:12	guide 130:24
127:7,13	gloria 50:11,13	114:18 116:8	guitar 83:14
freedom 7:18	50:17 51:1	117:7,9 126:23	guy 17:5 28:20
82:4	go 8:15 13:7,13	126:24 129:8	h
friends 34:21	14:1,11 20:15,25	good 8:4 9:12	h 138:3
36:15 37:23	28:19 31:25	10:3 81:2	hacked 11:1
38:1,5,9 39:23	32:2 43:25	118:21 129:5	hair 50:3
front 16:2 18:23 50:6	52:22 53:2 71:1	government 40:17 41:4	half 28:23 84:10
froze 11:21 38:3	78:13 80:20		85:3 131:21
11.21 38:3	83:9 84:4,5	grade 32:13	

[handled - instructions]

handled 136:8	45:10 46:6 49:7	51:20 61:20	inaudible 19:9
happening 24:10	50:14,23 58:15	70:11 81:12	23:16,19,25
happy 14:11	82:6 124:12	100:6	28:14
hard 64:15	higher 73:17,21	identify 64:23	include 34:25
harmed 121:11	highlight 61:2	65:2 69:23 71:8	95:9
121:18 123:8	68:9 77:16	71:16 72:14	included 37:13
head 84:10	85:22 92:13,17	73:22 74:6	136:14 137:3
headings 90:5	96:9,15	84:15,21 85:1	includes 61:7
headshots 64:24	highlighting	identifying	117:4 119:3
hear 23:22,23	63:14	131:16 132:2,3	including 9:8
24:5,13 56:1	hired 23:25	132:16	93:1,17 94:1
79:5,18 98:2	25:10	identity 123:25	inclusive 1:11
99:17,24 126:15	hold 19:7	124:23 125:20	2:11
heard 8:12 24:3	holding 49:18	125:21	incredibly 130:6
28:24	hope 30:20	image 45:12	incur 30:10,17
hearing 24:7	hopefully 13:14	47:8,11,18 64:8	individual 44:20
29:12 71:24	hopes 115:8	64:9,13,20,24	individuals
held 101:9	hour 15:21	65:3 69:17,24	96:24 115:7
help 21:12	house 18:24	70:2,7 71:17	information
112:24	39:14	72:12,15,18,21	6:17 11:2 18:3,5
helpful 13:3	hover 60:6,13	73:23 76:1,7	18:6,7,8 27:20
26:13 130:6,7	huh 52:16 54:20	82:20 89:7	34:24 35:25
henriquez 4:17	59:4 62:16	90:10 91:13,21	57:21 92:23
9:15	74:17 75:17	103:5,7 113:13	94:1,13 104:22
hereto 19:23	86:8 93:4	120:1 131:24	105:2,3,9 120:8
48:3 51:21	hyperlink	132:13	121:16 122:24
61:21 70:12	119:15	images 47:14	122:24 123:14
81:13 100:7	hypothetically	66:17,23 67:3,7	informed 25:2
134:8	122:1	67:16,25 68:2	initial 18:9
high 7:9,17	i	70:4,25 71:2	initialed 134:7
18:14,20 31:25	icon 57:21	75:8,15 76:16	ink 134:7
32:1,2,5,6,11,15	idea 36:20	77:25 78:19,24	instagram 98:12
32:19,25 33:14	identifiable	79:21 80:5,8,13	instructed 6:11
33:18,22 34:2,5	74:24 75:14	89:21 126:18	instruction
34:10 36:10,12	76:15 77:5,10	131:15	27:12,21
39:1,4,13,17	identification	imagine 97:5	instructions
40:2,4,5 41:7,18	19:22 48:2	120:24 127:23	27:15
41:18 42:8,10,18			

[instructs - legal]

:	:h 125.24	22.10.22.12	117.10 22 110.0
instructs 13:25	jacob 125:24	22:18 23:12	117:19,22 118:8
intent 123:2	january 19:4	29:12 33:2	119:8 121:13
intention 121:14	job 1:25 19:7	36:21 37:15	122:15,19 123:2
interested 9:5	136:5	38:13,18 39:1,3	123:12 125:24
18:21 135:17	joe 110:9,12	39:10 40:3,11,16	126:3 127:24
interests 120:10	joe's 19:6 100:22	40:19,23 41:3,6	130:20 131:12
internet 8:10	100:25 101:10	41:17 42:3,6,9	131:23
79:4	john 4:7	42:10,25 43:5,9	knowledge 36:14
interrupt 109:13	join 80:1 112:1,1	43:25 44:3 45:1	97:23
introduce 9:18	114:12 119:16	46:25 47:5,16	kurky 51:4,8,10
intrusion 7:7	119:22 120:13	48:22 49:10,25	51:13,14
investigate	121:1	50:5,10,18,19,22	l
25:11 27:3	joined 9:17	50:25 51:6,10,13	lane 31:24
investigating	jump 26:21	54:4 58:8,13,23	language 61:3
26:4 27:6	71:19 74:10	59:8,10 60:20	larger 82:23
investigation	92:2 109:11	63:1 64:9,20	las 10:8 32:1
126:7 127:19	jumping 19:1	65:9 67:1,22,24	96:17 106:12,15
issue 28:21	juncture 117:21	68:2,16 69:14,20	106:23 107:6,7
issues 24:20	junk 93:21	70:1,14 71:20	law 3:6,16,17 4:7
29:11	k	72:23 74:15	4:17 14:20
item 48:8	keep 17:3 55:15	76:21 78:12,17	136:1
i	131:20	78:21 80:4,8,13	laws 134:11
jack 9:13 10:3	keeps 42:3	81:15 85:15	lawsuit 10:9,17
12:19 13:6 24:6	ken 51:4,13,14	87:9 89:11,21	10:22 11:13,16
24:11 30:5	kent 83:5,21	90:12,17 91:23	12:1,3,8,11,17
55:22 71:19	84:3,6,10,14,16	91:25 92:5,19	16:14 17:13
72:8 80:24	85:4	93:20,22,24,25	30:21 31:4,8,16
109:11 111:8	kent's 84:10,12	94:6,8,15,17,21	126:7 128:5
114:20 116:8	keyboard 83:23	95:7,11,23 97:19	lawsuits 10:13
117:9 118:12	kind 82:5	99:14 100:8	leader 100:25
129:20 130:5,21	kit 83:17	103:21 104:8,12	101:10
130:23 131:19	knew 13:7 18:1	104:14,19 105:5	
130:23 131:19		105:7 106:14,22	learn 22:9,11,16 23:8
	77:1 120:22,25 know 10:12	107:3,23,25	left 54:6 56:21
jackbaumann 4:13	11:12 12:3 14:6	108:2,10,25	
		109:24 110:4	57:3,12 83:11
jacket 50:7	14:6 15:2 17:3	114:1 116:1,11	legal 26:25,25
	18:24 21:21	116:23 117:6,14	27:16,19,23
		,	

[legal - marked]

	linkedin's	51:17 54:5,15	lower 82:24
136:7 letting 17:3	119:19 120:1,14	55:5 56:16	m
liability 1:10	120:23	57:19 58:21	
2:10	list 53:25 56:24	63:6,25 65:13,14	machine 135:11
libraries 41:8,25	62:21,22 105:12	67:3 68:5 74:19	madison 3:10
library 41:17	listed 90:13	77:15 81:9	mail 93:11,17,22
42:8	lists 7:10,12	82:19 85:21	93:25 94:9,10 95:8
license 42:20	52:13 53:19	87:10,20,24,24	mails 93:14
43:2,11,21,24	57:6,9,14 58:10	88:4,12,18 89:1	
44:14,19,24	little 11:21 12:22	89:13,18 90:25	94:13,18,22 maintain 97:25
46:17,22 47:7,14	13:15 20:24	92:8 100:24	98:4
124:16,19,22	22:7 26:18 43:8	119:14 130:22	98:4 making 29:22
likeness 93:2,18	44:18 45:20	looked 30:24	108:12 116:11
95:2,3,10 106:6	52:12 54:17	33:22 34:21	mark 1:4,16 2:4
124:6,20	57:20 59:22	36:8 54:13	2:17 6:4 7:2,11
limited 1:10 2:10	60:22 62:12,15	75:18 77:4,11	7:16,21 8:18,20
27:22 61:5 86:5	62:17 63:17	86:13 89:1 91:1	9:23 10:7 52:14
86:9,11 87:6	64:18 67:2	106:15 119:11	53:20,25 57:7,14
89:13,22	76:25 84:24	126:17	58:3,14 59:3
line 6:12 55:20	87:20 90:9	looking 46:15	61:4,6,7,9 62:22
66:2 80:21 96:8	117:22	50:4 51:3 53:10	63:8 64:1,2
104:10 109:13	live 19:9	59:11,14 63:2	65:17 66:12
114:21 118:4,14	lived 19:10	65:7 66:2 67:8	67:11 70:8 74:6
136:15 137:4	lives 50:19 51:11	67:17 69:13	74:22 75:7,13
138:4,7,10,13,16	living 18:15	71:5 73:15,23	76:14 83:5 86:3
138:19	llc 1:10 2:10 4:4	74:11,13 76:4,8	86:19 90:15
link 20:2 119:23	local 33:12,15	76:21 77:13	91:9,20 93:1,17
linkedin 7:20	locate 67:25	82:17 87:21	96:16,18 97:7
98:8 99:7,9,12	102:11	90:1 91:6 95:1	100:25 102:10
99:24 100:23	locations 123:3	96:14 101:12	102:16,19
101:1,5,12,17,24	locked 136:12	120:25	132:23 134:5,20
102:2,6,10,11,20	137:1	looks 49:6 64:15	136:5 138:2
102:23,25 103:3	long 15:19 19:3	64:16,19 65:22	marked 19:21
103:13,15,17,25	19:7 104:9	69:19	20:1,2,4 21:4
104:2,12 105:13	122:17 129:21	los 4:11	48:1,6,13 49:1
119:12,22,25	longer 118:20	lot 122:23,23	51:19 52:11
120:13,17,20	look 33:24 34:20	low 60:8,15 61:9	53:11 59:14,21
121:1 123:4	38:20 50:2		

[marked - number]

61:19 62:2	116:4,19	90:2,8,18 93:2	nev 7:5
70:10,21 81:10	mine 42:24	93:18 94:19	nev 7.3 nevada 1:2 2:2
81:11,20 85:12	65:22	95:2 98:21,25	8:22 10:8 19:9
92:3 100:5,14	minute 20:16	99:1,2,5,11,12	19:10 21:5,9
married 50:22	53:3 81:1	99:23 100:2,2	32:1 50:20
matter 8:19	minutes 15:21	101:15,17 102:8	51:11 58:5,15
26:12 116:19		101:13,17 102.8	59:5 90:3 96:17
mean 24:11	28:20,24 109:18 129:4	102.23 103.3,7	128:23
	_	′	
27:14 58:10	moment 38:3	105:12,14,22,24	never 31:4 40:13
67:1 78:10,13	59:11 72:4 74:9	106:6,11,12,23	40:25 41:21
86:10 89:5	76:4 80:18	107:5,7 108:4,5	44:14 55:17
103:9,16 106:9	111:17	108:13,13	95:17 116:17
112:13 113:3	money 29:22	110:12,24 111:5	new 3:20 108:17
118:8 121:24	morning 8:4	112:3,4 120:1,8	110:6,8,10,12
122:10,11	9:12 10:3	120:19 121:2	113:18 114:8,17
123:12 129:20	move 42:15	122:2,4,18,21	115:8 116:3
means 54:11,22	57:20 62:12	123:3,18 124:17	120:12
55:12,13 56:8	96:12	125:5,13 135:21	news 109:1,4,6
128:18	moving 89:20	named 11:15	109:25 110:23
media 8:17 98:1	multiple 114:21	12:10 50:11	newspaper
98:4,6 132:25	music 7:19	58:14 135:9	111:1
medical 30:17	musicians	names 16:15	newsprint 7:8
medications	103:11 104:9	32:21 75:7	nobody's 112:14
15:1	n	106:20 110:25	117:4,6 119:4,7
meet 15:10,13,16	n 6:1	nature 10:16	notating 136:15
meetings 15:20	nag 46:12	navigate 19:19	137:4
15:22 16:1,7,22	name 8:25 10:3	necessary	note 8:7
members 40:1	10:6 35:1,15	136:14 137:3	noted 55:21
memory 31:24	46:17,19,22 47:1	need 21:21 48:21	134:7
message 94:9	48:9 50:13 51:1	60:24 79:16	noticed 121:22
messages 93:1	51:4,14 53:16,25	87:23 92:18	noticing 9:10
93:17 95:8	55:1,3 56:12	101:8 126:19	number 7:4 8:17
met 16:19	58:3 59:3 61:5,8	127:12 129:19	8:22 32:13 66:6
microphone	64:2 65:17	130:1	66:7 129:25
24:16 28:21	66:12,19,25	needed 87:18	130:7,18,24
middle 83:14	67:11,19 68:13	negative 77:7	131:1,4,7,8,8,10
mind 104:1,3	80:10,14 86:4,19	neither 135:16	131:10 132:9,13
113:22 114:7	00.10,17 00.7,19		132:25 136:15

[number - part]

137:4	34:18 36:2	opinion 110:17	pages 1:25 44:12
numbers 66:1,3	55:15,21 69:7	opposed 90:14	44:20,24 45:3,10
106:20	79:10,12 104:4	order 108:23	54:12,14 56:11
0	107:8,21 110:2	organizations	77:18 86:22
oath 14:19,19	112:7 116:21	35:8	103:1 106:13,16
135:10	124:1,7	original 64:5,10	106:18,24 107:6
object 13:24	objections 9:6	74:21 91:18	107:7,13 108:1,4
22:22 25:4,15	116:12	136:10,21	108:6,6 127:5
26:6,21 27:7	obscure 75:6	osborn 3:16,17	135:13 136:14
31:10 33:4 34:5	occur 15:22 16:1	9:18,18 16:20	136:17,17 137:3
34:12 35:16	16:4	outcome 9:5	137:6,6
36:23 37:7,18	october 1:17	135:17	paid 46:19 47:10
39:7 40:8,20	2:21 8:1,6	outside 19:10	110:10
41:9 43:3,13	135:21 136:3,5	p	paragraph 60:23
44:6 45:6,15,24	offer 33:11	p.m. 2:20 129:9	65:13,21 66:1,5
46:7 47:2,19	office 3:16	129:12 132:24	66:24 67:9,16
58:17 68:22	136:11	133:4	71:2 74:12,20
76:17 78:4 79:1	offline 118:13	pace 111:17	76:10,14 77:12
84:17 85:6	oh 59:1	page 6:5,12 7:4	77:15 78:1,20,25
90:20 94:3 97:2	okay 12:20,24	7:17,20 38:20	79:23 80:5,13
97:17 101:19	20:6 51:25	53:24 54:3,16,25	85:21 86:14
102:13 103:18	55:10 56:6,15	55:6,10 56:14,16	87:3,3,5,11,22
104:16 105:15	62:14 66:4,8	56:23 60:7,14	88:1,3,4,7,13,14
105:25 106:25	67:5 72:2 80:21 85:17 91:19	62:25 63:2,7,11	88:20,22,25 89:2
107:15 108:8	99:21 127:1	63:22 64:14,16	89:12,14,20 90:1 92:8,12,16 94:18
109:8 110:14	99:21 127:1 old 39:22 42:7	64:19,25 65:3	94:22,25 95:9,24
111:2 112:25	42:18,21 45:10	83:4 87:17	96:4,10,12,14
113:9 114:18	46:6	91:23 92:9,10	126:25 127:18
116:7 117:7	once 65:10 81:15	99:12 100:24	parameters 28:6
120:2 121:4	85:15 117:20	101:5,12 119:14	67:25
123:19 124:24	ones 67:16 82:24	121:2 130:8,18	parents 40:1
125:6,14 127:20	89:1,6	130:21,24 131:1	part 12:16 35:8
objected 114:22	ongoing 12:1	131:4,7,20,21	57:8 79:5 114:9
objecting 55:15	online 108:18	132:6,9,13	114:10 115:9
79:9	open 130:7	136:15 137:4	126:7 127:18
objection 25:23	operations 1:8	138:4,7,10,13,16	128:11,23
27:17 31:19	2:8 4:3 8:20	138:19	
	2.0 1.3 0.20		

[participants - pop]

participants	percussion 49:12	photograph 47:8	64:16,19 78:10
2:18 8:11	perfect 109:20	47:10,18 61:10	89:6,8 93:9,11
particular 74:12	period 136:18	84:16 93:2,18	93:14,19 98:18
77:6 92:16	137:7	94:23 95:2	127:12 130:19
94:25	perjury 134:10	123:9 131:7,10	131:17
parties 8:15	136:17 137:6	photographs	place 8:15 26:3
123:18,25 124:6	permission	47:14 99:8	27:4 135:8
party 9:4 10:9	29:23 48:17	131:3	placed 135:10
10:13 135:18	106:8 112:17	photos 77:3,14	plainly 74:23
pause 24:19	114:2 117:1	picture 18:2	75:14 76:15
pay 30:14 32:24	122:2 125:4,19	19:16 29:23	77:4,10
45:2 47:1,17	persists 24:12	30:22,23 35:7	plaintiff 11:9
107:25 108:20	person 13:17	49:8,16,21 50:11	96:16 97:7
108:23,23 109:2	38:17 80:7	51:3,4 64:4,10	plaintiff's 75:5
109:5 110:19,20	94:11 124:17,20	68:10 71:10,14	131:14
110:24	124:23 125:5,9	71:16 72:25	plaintiffs 1:6 2:6
paying 77:19	125:19	73:1,3,4,9,10,13	3:3 9:17 11:15
78:2,18 80:14	person's 94:19	73:21 74:1,3,5,7	12:10
86:23 88:15	95:9 102:2,6,8	75:19,21,24	plans 43:18,21
89:15 109:25	122:17	76:11 77:11	44:23 46:21
110:7 127:6	persona 124:23	80:2 82:4,7,9,11	47:13
pdf 20:12 136:12	125:22	82:15,15 83:10	players 49:21
137:1	personal 114:11	84:1,7,12 85:2	playing 83:13,22
penalties 134:10	121:16	91:18 100:21	please 8:7 9:7,21
penalty 136:16	persons 94:11	101:13 102:22	29:12 30:5
137:5	peterson 83:4,12	103:12 104:13	48:22 59:18
pending 14:14	83:19	106:6 111:25	66:21 69:1
people 10:25	phenomena 24:7	112:3,5,16,19,23	71:21 104:24
18:23 34:20	philips 10:22	113:7,17,22	105:19 116:15
36:8,18 38:11	11:9,19,23	114:2,8,16,16	126:10,14
39:6,19,22 50:2	phillips 11:5	115:6,12,15,24	pocket 30:10
58:14 74:7	photo 69:19 71:5	116:2,5,17,20,25	point 13:24
104:8 110:18	75:6,13 76:3,8,9	120:7,16 121:2	14:10 117:19
112:1 114:12	77:2 104:6	121:11,13,15,18	118:18
120:9,23 123:1	132:3,17	131:25 132:15	pointing 63:18
125:13 128:22	photocopy 7:8	pictures 19:16	pop 7:14 20:13
people's 73:18	7:17	35:2,5,7,10,14	60:8,15 63:7,10
106:19		37:13 46:5	63:22 82:5 91:9

[pops - question]

nong 54.25	126:2	97.4 5 90.12 22	
pops 54:25		87:4,5 89:13,22	q
portion 66:9	procedure	92:25 93:11,17	quality 8:9,10
85:25 115:19	136:19,20	94:8,13,18,22	question 12:21
position 27:25	proceeding 9:6	95:8 127:7	13:1,20,21 14:1
101:9	11:4,4 135:10	prosecution 28:2	14:4,7,13,14
possible 114:13	proceedings	28:8	15:24 21:23
115:21	135:7,11,14	protect 75:3	22:20,23 23:2
post 45:11	produced 49:2	provide 14:21,24	24:4,13,14,18,20
112:16 120:16	81:21	provided 123:13	25:5,16,24 26:10
120:19	product 108:14	123:17,24 124:5	26:15,18 27:2,8
potential 116:18	113:13,17	136:19 137:8	27:10,12,22 28:6
preparation	products 96:6,19	proxy 122:15	28:10,11 30:6
16:16	96:25	published 35:25	31:11 33:5
prepare 15:6,11	professional	pull 19:18 59:16	34:13 35:17
present 5:4 9:8	29:3	62:1 70:20	36:24 37:8,19
president 110:9	profile 7:20	81:15 95:24	38:4 39:8 40:9
110:12	98:16,19,22,25	100:3,15 126:18	40:21 41:10
pretty 49:8	99:3,24 102:2,6	126:21,23	42:14 43:4,6,8
69:22	102:12,19	pulled 68:13	43:14 44:7,18
previous 118:25	119:12,25 123:4	102:20	45:7,16,20,25
previously 63:3	profiles 98:1,4,6	purchase 33:17	46:8,10 47:3,4
65:7 74:12 91:1	profit 30:23	33:20 34:1	47:20 56:2,4
91:6	promote 103:6,8	36:15	60:10 63:11
price 44:4	103:13,15,16,17	purchased 36:13	68:23 69:1
printout 54:3	103:25 104:2,22	43:10	71:22,25 76:18
printz 50:11,13	105:3,9,14,24	purchasing	76:25 77:2 78:5
50:17 51:1	107:7 108:5,14	36:19	79:2,8,9,12,14
prior 19:5	110:12 111:1,20	purpose 27:18	79:17 84:18
privacy 75:3	111:24 112:5	purposes 114:13	85:7 94:4 97:3
privilege 27:8	113:8,13,17	pursue 29:24	98:2 101:20
privileged 26:8	114:16 115:7,12	put 36:9 37:3	103:19 104:17
27:20 28:3,4,9	115:24 116:5,20	55:1,3,16 98:18	104:24 105:16
probably 15:17	117:2 120:1	101:12 102:8	105:19 106:1
16:6 72:7 89:7	promotion	114:2,22 120:7,8	107:1,16 109:9
102:7 118:18	112:19 113:21	122:1	109:12 110:15
126:13 129:4	114:6	putting 33:8	111:3 115:3
problem 15:25	promotional		116:15 117:8,18
30:8 72:6,9	77:20 86:4,9,24		118:7,10,17,25
			110.7,10,17,20

[question - repeat]

119:3 121:5	masliza 126.12	72.0 77.0 01.2 5	wofloats 55.17
	realize 126:13	72:8 77:8 81:3,5	reflects 55:17
123:20 124:25	really 38:20	81:6 90:14,15	59:9
125:7 126:1,15	75:20	91:24 110:23	refresh 20:3
127:21 128:11	reason 14:23	111:9,10,12,13	87:23
questioning	34:9 54:2 62:24	114:22 118:2	regarding 28:2,7
109:14 114:21	128:25 138:6,9	129:8,10,11	regular 127:14
118:4,14	138:12,15,18,21	132:24 135:10	related 9:4
questions 6:11	reasons 15:2	135:14	relates 58:9
10:4 24:7 55:20	33:23	record's 25:21	relative 25:1
55:21 80:21	recall 16:10,15	recorded 8:13	135:17
116:9 117:11,14	32:21 36:18	8:18 132:23	released 136:21
118:24 126:11	38:14 39:25	recording 8:9,14	remaining 55:20
129:14,18	50:13 91:5	records 22:9	remember 16:18
132:19	124:13 126:17	25:3,12 28:15	22:14 32:17
quick 100:3	recalled 98:15	30:15 41:4 58:9	33:16 35:12
119:11	receive 32:24	60:16 61:6	72:25 73:1,2,4,7
quinn 4:6 9:13	received 35:14	64:21 68:17,20	73:8 88:18 98:9
9:15	35:23 36:7,11,22	69:5,12 74:21	102:3 103:2
quinnemanuel	37:16 38:24	111:20,24	124:15
4:13,23	40:5 41:7	127:17	remind 30:5
quite 62:6 83:2	receiving 26:25	recycle 118:14	46:9 126:10
98:14 114:23	recognize 21:15	red 71:9	reminisce 33:21
r	49:4 52:19	redwood 4:21	33:24
r 3:17 138:3,3	53:13 62:7,18	referenced 94:18	remote 1:16 2:17
r&s 137:1,9	82:1 100:18	94:22 95:8	remotely 2:18
rarely 18:24	recollection	136:6	9:9
100:1	87:23	referred 87:4	remove 30:25
reaction 29:16	record 8:5,16	referring 16:12	31:4,8,17
read 57:3 82:23	10:6 14:11	61:3 63:13,21	repeat 15:8,23
83:2 108:24	20:16,18,20,21	65:25 66:5 91:8	17:1 23:18
110:18,21	23:5,9,13 28:19	refers 87:5 95:1	24:18 26:14,18
118:19 119:1	29:6,7,11,13,15	reflect 66:19,24	28:18 35:19
134:6	30:25 31:5,9	67:19 90:2	42:14 56:4
reading 136:23	44:17,17 45:3	reflected 71:2	60:10 66:21
137:9	48:17 53:1,2,4,6	77:25 78:19,24	68:25 79:17
real 100:3	53:7 55:16 59:9	79:22 82:16	104:24 105:18
	60:7,9,14 69:16	87:17,25 88:24	115:3 116:15
119:11	69:18 71:20	89:21 127:18	118:4 126:1

[repeat - school]

120.10		27.12.24.20.6	2.12.12.4.14
128:10	restrictions 26:3	37:13,24 38:6	sam 3:12 13:4,14
rephrase 23:1	27:5	39:6,19 40:7	15:14 24:5
31:13	result 30:1,11	44:15 48:12	27:12 48:11,13
replied 18:3	results 7:11,13	49:20 50:3	51:18 52:1
reported 1:23	7:16 52:14	52:24 55:6	61:16 70:14
reporter 9:2,21	53:20 54:18	56:14,22 57:11	72:10 79:6
13:18 19:23	55:3 56:24 57:7	57:20,24 58:2,15	81:14 99:15
26:14 48:3	57:14,22 60:7,14	59:2,13 60:3,9	100:8 111:7
51:21 61:21	62:21 63:3	63:4,7,23 66:1	130:4 136:2
70:12 81:13	65:16 66:11,19	69:18 72:19,24	samuel 3:6 9:16
100:7 118:19	66:24 67:10	76:16,24 83:17	136:1
119:1 135:5	68:6,14 86:3,18	83:22,25 84:8,9	saw 73:8,10,14
represent 23:16	87:21,25 88:6,9	85:4,4 89:2,9	91:8 93:9,19
23:20 24:1,21	88:12,18,22,24	90:12 96:9	saying 24:13
53:23 62:20	89:11 90:2,13	101:13 106:20	79:6 93:15
128:22	105:13	107:14,20	says 20:12 53:19
representative	retain 24:21	108:14,24 112:6	54:6,18 55:6
128:8,14,18	retained 133:1	113:8,19,24	56:17,24 57:4,6
request 30:25	retaining 29:24	114:4,8,17	57:13,17,21,25
requested 31:8	retired 18:16	115:18,21	58:5,10 61:3
137:1,9,10	19:2,3,4	120:14,17,20	63:8 64:1,2,3,10
required 97:15	retiring 19:5	121:3 123:5	65:15 66:10
residence 61:8	retread 111:16	130:11	67:9 68:6 74:20
resident 96:17	retreading	rmr 1:23 2:22	75:2 77:17 78:8
resolution 60:8	114:23	roger 83:5,15,19	83:3 84:3,6
60:15 61:9	return 85:12	99:4 100:2	85:25 86:17
73:17,21	136:17 137:6	role 10:18 129:1	88:9 89:7,12
resolved 29:10	rev 7:5	row 49:12 56:24	90:3,8,10 91:9
respectful 80:25	review 16:8	83:4,9	91:15,20 92:12
118:22	21:24 136:8,10	rpr 1:23 2:21	92:22 96:15
respond 13:2,17	136:13 137:2	rules 13:14	100:25 119:15
46:10 126:11	reviewed 16:16	137:8	127:4
response 12:14	59:12 60:3	run 116:8	scan 45:10
84:24,25 99:22	revised 21:6	running 116:10	scanned 45:12
responsible	rhythm 99:4	S	schedule 136:10
32:17	right 11:6 19:25	s 138:3	school 7:9,10,12
restriction 37:3	24:5 33:12	5 130.3	7:15,17 18:14,20
	35:15 36:1,12		31:25 32:1,3,5,6
			,

[school - separate]

22 11 17 10 27	77 04 00 00		00.440.44.04.4
32:11,15,19,25	scroll 21:20,22	section 7:6	90:4,10,11 91:4
33:14,18,22 34:3	48:22 49:20	100:25 101:10	91:10,14,16 92:5
34:6,11 36:10,12	54:16 55:6	106:18 107:13	92:6,11,14,19
39:1,4,13,17	56:13 57:11	see 10:20 19:25	93:3 96:1,7,13
40:4,5 41:7,18	59:22 60:23	20:7,12 21:10,13	96:21 97:12
42:3,10,18 45:10	66:17 82:20	23:21 28:20	100:16 101:2,8
46:6 49:6,7	83:1,25 86:14	34:21,21 35:14	112:12 113:22
50:14,23 52:13	87:12,17,22 88:3	35:25 41:14,21	119:15 122:3
53:19,25 56:17	89:25 101:7	47:24 48:6,7,8	127:2,9 129:25
56:25 57:6,8,14	126:24	48:10,15,23,24	130:13,14,18,19
57:25 58:15,22	scrolling 131:20	49:21,22,23 50:1	131:1,4
62:22 63:18	sean 5:5 8:25	51:5 52:1,7,15	seeing 73:4
82:6 90:5	search 48:9	53:18,21 54:6,8	seeking 26:22,25
124:12	56:24 60:7,14	54:19 55:8,9,10	27:16
school's 41:19	61:4 62:21 63:3	56:17,19 57:1,3	seen 8:12 73:20
42:8	65:17 66:12,19	57:5,12,13,16,21	93:10 104:8
schools 34:10	66:24 67:11,19	57:24 58:2,6,22	112:15,23 113:2
40:2	67:24 68:13	58:23 59:2,6,20	113:5 116:24
screen 8:13 21:1	86:3 87:21,25	60:8,15,25 61:1	117:4,6 119:4,7
48:10,12,18,20	88:6,12,18,21,24	61:11,17,22 62:3	sees 122:21
48:23,24 51:23	89:11 90:1	62:13,15,17 63:6	sell 42:20 43:2
52:6,8 59:21	102:7 105:11,12	63:8,10,11,14,17	43:11,18,24 44:5
61:18,25 62:4	105:22 106:11	63:20,23 64:1,4	44:14,19,23
63:11 65:9	searchable	64:6,13,15,18	46:17,21 47:7,13
70:15,23 71:6	101:17 108:13	65:10,11,19,22	selling 34:6
74:14 80:19	searched 80:9,14	66:7,14 67:4,13	43:25
81:16,19 85:14	90:18 102:19	68:7,10 69:17	send 92:24 93:16
85:19 91:1 92:4	112:3	70:22 71:6	senior 132:14,17
100:14 120:25	searches 67:22	72:20 73:6,18	sense 109:15
130:1,3,12	searching 53:15	74:3,15,18,25	sent 93:14,21,23
131:24	53:25	75:9,16 76:10	94:1,10
screenshot 53:24	seclusion 7:7	77:22 78:10	sentence 65:14
62:21,25 65:16	second 18:17	80:2 81:15,17,23	66:10 74:19
66:11 67:10	22:8 52:21,24	82:21 83:1,7,25	77:16 86:1
68:6 86:2,18	58:21 61:13	84:10,11 85:16	92:16 95:1
88:25	65:6 70:8 72:12	85:18,23 86:7,15	127:3
screenshots	126:14 130:10	87:1,12,15,16	separate 104:7
87:10,16	131:8,21	88:8,21 89:4,8	_

[seq - software]

seq 7:6,6	81:9,16,19,24	setting 80:7,12	sign 36:8 37:24
serve 128:8,14	82:15 83:5	125:12	38:1,5,8,18,20
128:18 129:1	84:19 85:8,15,19	seven 132:25	78:1,8 114:17
service 97:10	86:13 91:2,5,9	sevy 83:6,21	124:13 136:16
108:16	91:20 92:4,20	84:3,7 85:4	137:5
services 78:24	95:13 96:2,15,16	share 19:20 20:2	signature 135:24
79:21 95:20	96:18 97:4,8,22	20:25 21:1,3	136:21,23,23
96:6,20 97:1	97:25 99:5,7,15	39:6,18 47:24	137:9
sessa 1:4,4,16	100:13,25	48:12,20 51:18	signed 38:12,14
2:4,4,18 6:4 7:2	101:21 102:11	51:23 52:2,5	38:15
7:11,13,16,21	102:16,19	61:14,18,25 65:8	similar 120:9
8:18,19,20 9:23	103:20 104:5,18	70:14,15 74:14	similarly 1:5 2:5
10:3,7 11:21	105:17 109:24	81:16 85:14	sincerely 118:8
12:19,20 13:9	110:16 111:16	91:1 92:4 98:21	singers 7:18 82:5
14:18 18:12	111:18 112:2,8	100:13 102:22	singing 7:19
19:12,25 20:24	113:16 115:2	129:23 130:1,1,2	sit 23:12 78:22
21:7,15 22:24	116:14 118:10	130:3,12	79:19 90:12
24:18 25:6,17	119:10,24	shared 37:17	105:7 108:3
26:6 27:14 28:1	121:10,24	38:23 99:8,11,23	site 80:10 90:18
28:14 29:1,10,13	123:21 124:2,8	sharing 80:18	93:19 95:22
30:4,20 31:12,23	125:1 126:9,17	81:19	103:10 105:6
33:6 38:3 42:17	127:22 128:3	shores 4:21	111:24 112:5,20
45:9,17 46:8,10	129:13,17	shorthand 135:4	113:8,18,23
47:4,21 48:5,20	130:18 131:1,23	135:12	114:1,16 115:16
49:4 51:24 52:5	132:8,23 134:5	show 33:21	116:18
52:8,14 53:10,20	134:20 136:4,5	39:22 48:17	sites 122:23
53:25 55:19,25	138:1,2	89:7 114:16	sitting 50:6
56:14 57:5,7,14	sessa's 7:17	showed 116:17	71:18 82:12
58:3,15 59:3,12	55:16 61:4,7,10	showing 39:14	102:5
61:7,25 62:3,7	65:17 66:12	65:16 66:11	situated 1:5 2:5
62:11,22 63:8	67:11 74:23	67:10 69:25	skill 135:15
64:1,2 65:9,25	75:7,14 76:14	86:2,18 115:7,15	skittish 24:16
67:2 68:19 69:4	86:4,19 90:15	shown 61:5	small 49:8 69:22
70:16,20,22 71:4	93:1,17 117:13	65:18 66:13	73:14
71:20,21 72:15	117:18 129:24	67:12 86:6,20	social 97:25 98:4
72:20 74:2,6,15	set 71:18 82:13	sic 125:24	98:6
76:11,19,25 78:6	135:8	side 55:9 63:7	software 70:5
78:15 79:3,16		66:3 69:18	75:6,13

[solicit - subscribers]

li -i4 101.1	22.11	-4 - 20.12	120.2 121.4
solicit 121:1	space 33:11	stopping 39:13	120:2 121:4
solutions 136:7	speak 18:10	46:4	123:19 124:1,7
somebody 11:1	speaking 13:3	strauss 3:5,6 6:7	124:24 125:6,14
29:21 50:14	116:12 118:2	9:16,16 12:19,25	126:9 127:20
73:2 78:23	speaks 55:18	13:6 16:20	129:5,17 130:5
79:20 112:12	specific 44:12	20:15 22:19,22	130:14,17
113:2,22 115:15	94:10,14	24:6,11 25:4,15	131:19,22
122:2,21 125:21	specifically	25:23 26:6 27:7	132:19 136:1
somebody's	17:12 77:2	27:24 28:22	street 3:8,19 4:9
122:1	93:13	29:1 30:4,8	struggle 131:16
someone's	spoke 17:25	31:10,19 33:4	struggling
105:22	50:16 51:7	34:12,18 35:16	129:22
soon 25:8,8	spoken 17:8,18	36:2,23 37:7,18	student 50:10
sorry 12:14 13:2	17:22	39:7 40:8,20	51:4
15:8,23 16:25	ss 135:1	41:9 42:13 43:3	students 32:24
22:19 23:18	stage 12:3 35:9	43:13 44:6 45:6	36:10 38:24
24:14 26:13	standing 49:17	45:15,24 46:7	75:8
28:17 30:7 33:7	stands 117:24	47:2,19 48:16	stuff 93:20
38:3 42:13	start 10:5 24:13	52:3 55:14 56:1	subject 97:9
46:11 71:19	67:8	58:17 61:22	subscribe 110:10
72:5,7 78:13	stat 7:6	68:22 69:7	113:23 115:15
79:22 83:24	state 9:7,9 10:5	70:17 71:19	117:5 119:5
84:4,23 88:4	90:8 128:23	72:1,6 76:17	127:12
89:4 96:10 98:2	134:11 135:1,5	78:4 79:1,7	subscribed
98:3 99:17	136:9,12	80:20,24 81:17	135:20
111:16 126:1	states 1:1 2:1	84:17 85:6	subscriber 78:3
128:10 132:10	8:21	90:20 94:3 97:2	78:23 79:20
sort 10:15,17	status 48:8	97:17 100:10	80:14 96:5,18
26:3 27:4 28:6	statute 21:6	101:19 102:13	116:18
37:3 46:15 50:4	stay 52:25	103:18 104:4,16	subscribers
104:7 123:7	step 31:23	105:15,25	77:19 78:18
sorts 35:5	steps 29:25	106:25 107:8,15	86:23 88:15
sought 43:2	sticking 93:13	107:21 108:8	89:15 96:25
sounds 118:21	stipulation	109:8,20 110:2	97:15 110:1
129:5	136:20	110:14 111:2,8	112:20,24
sour 10:7	stop 52:21 80:18	112:7,25 113:9	113:18 114:8,17
south 4:9	116:10 117:10	114:18 116:7,21	115:8,21 116:3
		117:7,25 118:21	126:20 127:6
		<u> </u>	

[subscription - top]

subscription	take 8:15 13:19	tend 13:16	thumbnails
82:19 95:18,22	14:10,12,14 17:4	term 95:1	77:11
127:14	22:8 24:15	terms 67:24 97:9	time 9:7 10:16
subsequent 31:7	30:22 31:3,23	97:16,22 115:11	16:5 20:19,22
subsequently	32:8 42:6 44:3	testified 9:25	24:24 29:5,8
23:8	44:11 51:16	60:2	31:24 32:12
subsumes 28:11	61:13 65:5,13	testimony 14:21	33:25 50:16
suit 17:10	69:23 70:7 74:9	14:24 15:4	51:7 53:5,8
128:24	81:9 85:11,21	55:16 113:15	80:21 81:4,7
suite 3:9 4:10,20	88:12 90:24	118:2,23 134:8	86:12 98:9
sullivan 4:6	92:1,8 95:12,17	135:15	104:9 111:11,14
supplied 6:17	97:21,24 111:7	text 63:19 82:21	117:9 118:6,7,7
suppose 121:7	118:12,13 121:9	thank 17:2 72:9	118:11 129:2,9
sure 15:9 17:11	128:2 129:19	129:14,16 133:2	129:12,15 135:8
18:18 26:13	taken 8:18 30:15	thing 28:22	135:9 136:10,18
28:22 35:22	74:1 135:7	118:5	136:24 137:7
49:14 57:10	talk 17:5 18:19	things 35:8,9	times 15:15,17
58:16 60:11,20	talked 17:15	think 12:22 16:6	101:25 108:17
63:12 66:22	talking 46:16	28:10,11 29:10	110:6,8,11,13
70:6,7 72:5 88:2	targeted 92:25	60:2 66:2 71:23	114:21,23
98:11,14 99:10	93:11,16 94:8,13	71:23 77:7 80:3	title 52:13 54:5
99:13 100:1,22	94:17,21 95:7	91:22 98:15	57:5
101:22 104:25	tech 24:20 28:20	99:20 100:22	today 7:19 10:4
105:10,21	29:3,11	110:19 114:14	14:10,19,23 15:4
107:10 113:25	technology 8:24	118:1,16 123:15	15:7 16:24 17:6
115:4 116:16	telephone	124:3,21 129:4	23:12 26:20
117:15 120:15	106:20	129:19 130:11	78:23 79:20
126:5 128:12	tell 10:16 11:9	third 123:18,25	102:5 105:7
swear 9:21	18:12 19:12	124:6 131:8	108:3 129:15
swore 14:19	23:4 48:22	three 32:10 34:2	today's 15:11
sworn 9:24	60:24 61:16	129:3 131:8,10	16:17 17:9
system 121:23	79:7 85:3 87:14	131:11	132:22
122:7,9,14	130:6,21 131:3,9	thumbnail 65:3	told 22:13
t	132:8,12	69:24 70:2 71:9	tony 7:13,17
t 138:3,3	telling 24:14	73:14,23 74:4,8	top 52:13 53:18
tabs 90:9	ten 32:13 81:1	75:18,20 76:1,7	56:13,16,21 57:2
	109:17	76:9 82:16	63:9,25 71:9,11
		91:13	76:21 83:4,9

[top - usually]

91:9,20 100:24	tuba 49:21	underlying 60:9	55:23 113:15
totally 129:22	tuesday 1:17	60:16	unit 8:17
touch 25:8	2:20 8:1	underneath 90:5	united 1:1 2:1
touched 13:14	turke 3:5	91:15	8:21
22:7	turkestrauss.co	understand 11:3	unjust 7:7
trader 19:6	3:12 136:2	12:7 13:9 14:2,5	unjust 7.7 ups 132:20
100:22,25	turn 38:19 65:6	14:18 21:2,17	ups 132.20 upstairs 42:19
100.22,23		22:4 27:11	_
transcribed	80:17 119:10 130:7	39:21 59:24	urgent 109:18
135:12			urquhart 4:6
	twelve 32:13	60:5,12 70:4	usa 58:5 59:5
transcript 134:6	51:9	75:12 89:10	90:3,9
136:6,8,10,13,13	twin 4:19	95:3 101:4	use 30:22 46:19
136:21 137:2,2	twitter 98:10	103:14 111:18	47:1 98:13 99:5
tread 95:13	two 24:8 25:7	114:7 115:10,14	103:17 111:19
trial 77:21 78:2	49:21 50:2	116:3 117:12,23	111:23,25
78:9,18 80:2,8	76:16,20 77:3,6	120:11 122:8	112:13,14 114:6
86:11,25 87:5	77:10,14 87:8	128:7	114:7 116:2
88:16 89:16	89:18 131:8,10	understanding	121:11,18 122:4
127:8,13	131:11	19:13 34:9,17	122:23,24 123:9
tried 42:20	tympany 49:19	38:22 41:24	123:14,18,25
43:11 44:14,19	type 102:10	54:10,21,24 55:2	124:6,17,20,23
46:16 47:7	types 33:15	55:11 56:7,10	125:5,13,19,21
53:15 102:1	34:24 35:10	66:16,18,23	129:22
trip 31:24	u	67:15 68:12,19	user 60:7 78:1,2
trouble 20:25	u.s. 7:15 56:17	69:4 77:24	80:9 90:17
132:1,2,16	56:25 57:25	78:22 79:19,25	users 60:6,13
true 44:11 75:23	58:22 63:18	82:14 87:7	61:4 77:19
134:9,12 135:14	90:5	89:17 94:12	78:18 86:23
truthful 14:21	uh 52:16 54:20	96:24 97:14	88:16 89:13,16
14:24 22:2	59:4 62:16	98:24 102:4,9,18	89:22 105:11
try 30:14 37:3	74:17 75:17	104:21 105:1	110:7 121:1
44:23 46:21	86:8 93:4	114:15 115:6,11	127:6
47:13,23,25	unclear 14:4	117:13,16,19	uses 42:11 105:8
114:12	117:25	119:18 127:11	114:15 115:6,12
trying 13:19	uncomfortable	127:16 128:3,13	115:24
26:22 89:10	118:3	128:17,20	usually 38:19,19
103:14 115:10	110.5	understood 14:7	106:19
117:12,23 122:8		28:12 35:13,24	

[v - witness]

	vintually 0.0	120:13 122:22	120.14 22 121.2
V	virtually 8:8		120:14,23 121:2
v 136:4 138:1	visible 74:23	126:9 129:14,24	121:12,14,15,19
vegas 10:8 32:1	75:14,20 76:1,2	130:22	122:3 123:10
96:17 106:12,15	76:15 77:4,10	wanted 43:24	125:25 126:4,20
106:23 107:6,7	89:15 120:22	44:4 45:9,14,22	websites 109:4
veritext 9:1,3	visited 95:14	110:18	109:25
133:1 136:7,9,11	101:24 103:1	wants 79:12	week 16:4,4
version 60:8,16	108:17 109:1	115:20	weeks 16:5
61:5,9 73:13,14	120:23	way 42:25 45:1	weird 24:6
73:21 86:5,10	visitors 120:13	46:25 47:16	welcome 111:16
87:6 89:13	volume 1:18	48:18 84:9 91:3	went 18:20
versus 8:20 21:7	vs 1:7 2:7	105:8 106:22	29:13 32:8
vicki 18:19	W	111:25 114:15	50:14 118:6
video 8:14,17	w 4:7	115:23 122:4	western 7:9 32:1
132:23	wait 12:20,25	ways 121:17	32:2,5,11,19,25
videoconference	13:20 20:10	123:8	34:2 36:12 40:5
2:19 3:7,18 4:8	30:5 71:21 72:4	web 53:24 54:3	41:7,18
4:18	waived 136:23	62:25	whereof 135:20
videographer	136:23	website 22:10,17	white 71:15
5:5 8:4 9:1,20	waiving 136:20	23:6,10,14 25:3	72:13 76:3,8
20:18,21 29:5,7	wall 108:20,23	25:13,22 28:16	106:18,24 107:6
52:25 53:4,7	110:24	29:15 30:2,12	107:7 108:4,6
81:3,6 111:10,13	want 13:13	31:1,5,18 45:11	whoever's
129:8,11 132:22	20:15 24:12	45:12 53:16	110:24
videotaped 1:16	26:6 29:21,22	55:17,18 60:15	wife 18:19,22
2:17	30:4 31:23 46:5	62:23 63:4 68:3	williamson 3:8
view 27:19	47:23 51:17	68:13,17 69:12	willing 45:2 47:1
105:13,23 107:5	55:14,16 61:14	80:9,15 86:6	47:17
108:3,12 110:11	65:13 80:17,19	89:23 90:18	window 7:14
110:23 115:24	80:25 81:9 83:9	95:15,18,21	wisconsin 3:10
119:24	85:12,21 90:24	103:4 104:22	wish 118:24
viewed 116:4	90:24 92:2,8,15	105:2,9,14,23,24	witness 6:4,11
127:17	109:13 112:18	108:13,20 109:1	8:12 9:21 12:24
violation 7:5	114:5,22 116:3	109:6 110:6,11	24:9 25:7,18,25
21:5	117:15 118:8,12	111:20 115:7,13	26:16 28:23
virginia 1:8 2:8	118:21,23	115:25 116:6,20	29:4 30:7 31:21
virtual 8:24	119:10,22	116:24 117:5	33:7 34:15,20
VII (UIII U.27	117.10,22	119:6,19 120:1	35:19 36:4 37:1

[witness - zoomed]

37:10,21 39:10	written 82:22	66:20,25 67:20	71:4 82:21,24	
40:11,23 41:12	123:13,17,24	68:17,20 69:5,11	87:14 91:3	
43:5,16 44:9	123:13,17,24	90:14,15 91:24	92:17	
45:18 46:2,13	wrong 13:10	105:1,3 111:20	zoomed 83:2	
	75:13 120:12	ĺ ,	Zuomeu 65.2	
47:5,22 58:19 68:25 69:9		111:23 123:9,14		
	130:11,20	124:12,14		
71:23 72:5	X	132:14,17		
76:20 78:7 79:4	x 6:1 137:1	yearbooks 7:11		
84:20 85:9	y	7:13,15 32:18,25		
90:22 94:6 97:5	yeah 10:19 11:20	33:11 34:6,10,25		
97:19 99:17	18:25 19:14	35:2,6,11,14,15		
101:22 102:15	20:17 21:11	35:24 36:6,15,19		
103:21 104:6,19	24:9 40:23 42:9	36:22 37:5,16		
105:18 106:3	49:6,12 54:23	38:2,6,9,12,15		
107:3,10,17,23	55:10 58:25	38:23 39:2,5,22		
108:10 110:4,17	59:23 61:1	40:1,17 41:8,19		
111:5 112:9		42:1,4,7,11,18		
113:2,11 116:23	63:20,24 64:12	42:21 43:19,22		
120:4 121:7	64:15,19 65:21 65:24 67:5	44:4,12,20 46:6		
123:22 124:3,9		46:15 52:13		
125:2,9,16	69:20 91:15,18	53:19 56:17,25		
127:23 129:16	92:14 118:16	57:4,6,9,14,25		
135:9,20 136:13	126:2,21,22	58:11,22 62:22		
136:16 137:2,5	year 19:4 32:14	63:18 90:6		
138:24	34:11 36:11	years 19:8 32:9		
wondering	yearbook 7:18	34:2 51:9		
109:12	22:9 23:5 25:2	yellow 106:13,15		
words 24:8	25:12,21 28:15	107:13 108:1,6		
35:20	29:15 30:1,11,15	york 3:20 108:17		
work 13:22	31:5,9,17 32:14	110:6,8,10,12		
14:16 16:21	32:20,22 33:8,14	Z		
29:2 100:21	33:17,20 34:1	zoom 48:21		
worked 19:6	36:11 37:12,24	49:11,24 52:12		
works 47:24	39:14,18 40:6	54:17 56:19		
55:22 109:18	41:3 43:1,6,10	60:24 62:6,11		
wrap 123:7	43:25 44:24	64:17 67:2 68:9		
writing 57:2	45:3,10 54:1	69:15 70:21		
	58:9 59:9 64:21	07.13 /0.21		

Federal Rules of Civil Procedure Rule 30

- (e) Review By the Witness; Changes.
- (1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:
- (A) to review the transcript or recording; and
- (B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.
- (2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES

ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1,

2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES

OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

Veritext Legal Solutions complies with all federal and State regulations with respect to the provision of court reporting services, and maintains its neutrality and independence regardless of relationship or the financial outcome of any litigation. Veritext requires adherence to the foregoing professional and ethical standards from all of its subcontractors in their independent contractor agreements.

Inquiries about Veritext Legal Solutions' confidentiality and security policies and practices should be directed to Veritext's Client Services Associates indicated on the cover of this document or at www.veritext.com.

Case 2:20-cv-02292-GMN-BNW Document 103-18 Filed 12/06/22 Page 65 of 66

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					Page 138
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1	DECLARATION
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5	I, MARK SESSA, do hereby declare that I
6	have read the foregoing transcript; that I have made
7	any corrections as appear noted, in ink, initialed
8	by me, or attached hereto; that my testimony as
9	contained herein, as corrected, is true and correct.
10	I declare under the penalties of perjury
11	under the laws of the State of California Nevada
12	that the foregoing is true and correct.
13	This declaration is executed this 23
14	day of <u>November</u> , 2022, at
15	<u>Las Vegas</u> , California Nevada.
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19	Mark Sesson
20	MARK SESSA
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	Page 134

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